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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO
PEREZ,

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Plaintiffs,

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-against-

Case No:
09-CV-5331

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SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
LOUIS VECCHIA, CHRISTOPHER VECCHIA,
HELENE VECCHIA, and JOHN DOES 1-5,

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Defendants.

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-----X
October 22, 2011
9:15 a.m.

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4875 Sunrise Highway
Bohemia, New York

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EXAMINATION BEFORE TRIAL of EDVIN A.

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RIVERA, s/h/a EDWIN RIVERA, one of the

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Plaintiffs herein, taken by the Defendants,

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pursuant to Article 31 of the Civil Practice Law

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26

and Rules of Testimony, and Notice and order,

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held at the above-mentioned time and place,

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before Jaime Dochtermann, Notary Public of the

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State of New York.

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A P P E A R A N C E S:

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(NOT PRESENT)

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(NOT PRESENT)

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BY: SAUL ZABELL, ESQ.

ALSO PRESENT:

Sandra Ramos Connor, Spanish Interpreter
Louis Vecchia

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S T I P U L A T I O N S

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IT IS HEREBY STIPULATED AND AGREED

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by and between the attorneys for the

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respective parties herein, that filing,

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sealing and certification be and the same

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are hereby waived.

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IT IS FURTHER STIPULATED AND AGREED

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that all objections, except as to the form

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of the question shall be reserved to the

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time of the trial.

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IT IS FURTHER STIPULATED AND AGREED

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that the within deposition may be signed

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and sworn to before any officer authorized

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to administer an oath, with the same force

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and effect as if signed and sworn to before

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the Court.

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2 S A N D R A R A M O S C O N N O R, the
3 Spanish Interpreter herein, was duly sworn
4 to interpret the questions from English
5 into Spanish and the answers from Spanish
6 into English to the best of her ability:

7 E D V I N A. R I V E R A, s/h/a E D W I N
8 R I V E R A,

9 The Witness herein, having been duly sworn
10 through the Interpreter, was examined and
11 testified as follows:

12 EXAMINATION BY

13 MR. ZABELL:

14 Q Would you please state your full
15 name for the record.

16 A Edvin A. Rivera.

17 Q What is your current address?

18 A Three John Street, Bay Shore, New
19 York 11706.

20 Q Edvin, you speak English, right?

21 A A little bit, but I need the
22 interpreter.

23 Q Of course, you do.

24 We were actually at a hearing
25 where you spoke English, right?

1 E. Rivera

2 A Yes.

3 Q Okay. So you speak more than just
4 un poquito, right?

5 MR. McNAMARA: Objection.

6 A Yes.

7 Q Don't lie to me. You are starting
8 right off with a lie, so don't lie.

9 A No.

10 Q Because I will get very angry.

11 A No, I don't lie. I tell the
12 truth.

13 Q You just lied to me. The first
14 question I asked you, you lied to me.

15 MR. McNAMARA: Objection.

16 A No.

17 Q How about we start over again.
18 You promise me that you are not going to lie
19 today?

20 MR. McNAMARA: Objection.

21 Q I promise to forgive you for
22 lying.

23 MR. McNAMARA: Objection.

24 A That's fine.

25 Q Is that a deal?

1 E. Rivera

2 A It's a deal.

3 Q Don't go back on your deal.

4 A Okay.

5 Q Mr. Rivera, you understand that
6 you are at a deposition today, correct?

7 A Yes.

8 Q And you are not going to lie at
9 this deposition, right?

10 A Yes.

11 Q And you know if you lie, you can
12 be penalized under the laws of this country,
13 correct?

14 A Correct.

15 Q If you lie here at this
16 deposition, you will be lying under oath.

17 Do you understand that?

18 A Yes, I understand.

19 Q Therefore, you are not going to
20 lie, because you understand, right?

21 A Correct.

22 Q If I ask you a question, you are
23 required to provide an answer to my question.

24 Do you understand that?

25 A Yes.

1 E. Rivera

2 Q If you provide an answer to a
3 question that I ask you, it will be assumed that
4 you understood my question.

5 Do you understand that?

6 A Yes.

7 Q If you do not understand a
8 question, you have an obligation to tell me you
9 do not understand that question.

10 Do you understand that?

11 A What I don't understand, I will
12 ask you to repeat.

13 Q That is your obligation. Do you
14 understand that?

15 A That's fine.

16 Q Do you owe anybody any money?

17 A No.

18 Q Really? Already you are going to
19 lie to me?

20 MR. McNAMARA: Objection.

21 Q Wait. I didn't ask --

22 A No, let me speak also.

23 Q You don't get to speak. You get
24 to answer my questions and nothing more.

25 Am I clear on that? Am I clear?

1 E. Rivera

2 A Okay, that's fine.

3 Q Are you familiar with a company
4 called LR Credit 20 LLC?

5 A No.

6 Q I am going to show you that there
7 was an action in the First District Court of
8 Suffolk County between yourself and LR Credit 20
9 LLC where it was determined by the Court that
10 you do, in fact, owe money.

11 MR. ZABELL: We are going to
12 identify this as Defendants' Exhibit 1 of
13 today's date. Okay.

14 (A document from the First
15 District Court of Suffolk County was
16 marked as Defendants' Exhibit 1 for
17 identification, as of this date.)

18 A I don't remember that.

19 Q Take a look at that. (Hanging.)

20 A (Reviewing document.) I don't
21 know. I never received that.

22 Q Right. So you don't owe anybody
23 \$4,351.50?

24 MR. McNAMARA: Objection.

25 A That I remember, no.

1 E. Rivera

2 Q That you remember, okay.

3 How is your memory, sir?

4 A That I remember, that I don't owe
5 anybody money.

6 Q Clearly, you do. But that's okay.
7 We are going to tell them where they live and
8 you can deal with them directly, okay? Okay?

9 A Okay, that's fine.

10 Q Do you have any identification on
11 you?

12 A Yes.

13 Q May I see it? You can hand it to
14 me directly.

15 A (Handing.)

16 Q Is this the only form of
17 identification you have?

18 A Yes.

19 Q You don't have anything else in
20 that big wallet of yours?

21 MR. McNAMARA: Objection, Counsel.
22 He already provided his license. That
23 should be more than sufficient.

24 Q Do you have anything in there with
25 your picture on it?

1 E. Rivera

2 A No, that's it.

3 Q Are you sure?

4 A Sure.

5 Q You are not fibbing to me, are
6 you?

7 MR. McNAMARA: Objection.

8 Q Because I have eyes too.

9 A That's the only thing I have.

10 Q So I didn't see any form of
11 identification --

12 MR. McNAMARA: Objection.

13 Q -- with a picture on it as you
14 just opened up your wallet in front of the
15 table?

16 MR. McNAMARA: Objection.

17 Q I think I saw something.

18 A I told you I don't have anything
19 else.

20 Q I think you are lying to me.

21 MR. McNAMARA: Objection.

22 Q We are going to start the day off
23 bad again.

24 MR. McNAMARA: Objection.

25 Q You don't want that.

1 E. Rivera

2 MR. McNAMARA: Objection.

3 Q It's not going to be good for you.

4 MR. McNAMARA: Objection.

5 Q My court reporter will get angry.

6 MR. McNAMARA: Objection.

7 Q Do you want to apologize for lying
8 to me already?

9 MR. McNAMARA: Objection.

10 Q You need to answer.

11 A I am not saying a lie.

12 Q Let me see your wallet.

13 MR. McNAMARA: No, objection, no.

14 Q Are you refusing?

15 MR. McNAMARA: I am instructing my
16 client not to --

17 Q You need to use your words. If
18 you shake your head no, you need to use your
19 words like a big boy.

20 A I am not going to show you my
21 wallet.

22 Q Why? What are you afraid of what
23 is in your wallet?

24 MR. McNAMARA: I am directing my
25 client not to provide his wallet.

1 E. Rivera

2 MR. ZABELL: Nobody is listening
3 to you.

4 Q Why are you afraid to show me what
5 is in your wallet?

6 MR. McNAMARA: Objection.

7 Mr. Rivera, you do have to answer
8 the questions.

9 A I am not going to answer that,
10 because I don't have anything to hide.

11 Q Hey, big boy over there, your
12 attorney, just said that you have to answer my
13 question.

14 Why are you afraid to show me what
15 is in your wallet?

16 MR. McNAMARA: Objection.

17 MR. ZABELL: You look very warm
18 and cuddly today.

19 MR. McNAMARA: Thank you very
20 much.

21 Q Pay attention.

22 A I am not going to show you my
23 wallet.

24 Q Why not? What are you afraid of?

25 A I am not afraid. What should I be

1 E. Rivera

2 afraid of?

3 Q If you are not afraid, then let's
4 see what is in it, unless you are lying to me
5 again.

6 MR. McNAMARA: Objection.

7 A Can I have my license back? You
8 already looked at it.

9 Q Not yet. See? You ask me a
10 question, I give you an answer. You are
11 supposed to answer me quickly like that.

12 MR. McNAMARA: Objection.

13 Q What are you afraid to show me
14 that is in your wallet?

15 MR. McNAMARA: Objection.

16 Q Do you have drugs in there?

17 MR. McNAMARA: Objection.

18 A I told you that I am not afraid.

19 Q Then why wouldn't you show me?

20 MR. McNAMARA: Objection.

21 A It's something personal.

22 Q What is personal in there?

23 MR. McNAMARA: Objection.

24 A My wallet. It's my wallet.

25 Q Do you have drugs in there?

1 E. Rivera

2 MR. McNAMARA: Objection.

3 A No.

4 Q Do you have a condom in there?

5 MR. McNAMARA: Objection.

6 A No.

7 Q What is so personal in there; love
8 notes?

9 MR. McNAMARA: Objection.

10 A Nothing of that.

11 Q Then what is it? What is so
12 personal in there?

13 A Things that are mine that have no
14 interest to you.

15 Q How do you know that they have no
16 interest to me? I have lots of interests and
17 right now, the fact that you want to hide this
18 from me, it is piquing my interests. So
19 identify what is in there that you don't want me
20 to see.

21 MR. McNAMARA: Objection.

22 Q If you do, maybe I will give you a
23 donut.

24 MR. McNAMARA: Objection.

25 A Thanks for the donut, but I'm

1 E. Rivera

2 okay.

3 Q But you still have to tell me what
4 is in there that you find so personal.

5 MR. McNAMARA: Objection.

6 A My credit card and papers with no
7 importance.

8 Q Well, what do those papers say on
9 them?

10 MR. McNAMARA: Objection. You are
11 wasting your time on my wallet.

12 A I am not going to show it to you.

13 Q I am not asking you to show it to
14 me now. I am asking you to identify what is in
15 it.

16 MR. McNAMARA: Objection.

17 Q That is only because you lied to
18 me and I saw another picture of you in there.
19 Go ahead. Ask your attorney. You have to
20 answer my question. He will tell you.

21 MR. McNAMARA: Objection.

22 Q That is what you pay him to be
23 here, right?

24 A I don't have anything that is of
25 interest to you in my wallet, so...

1 E. Rivera

2 Q How do you know?

3 MR. McNAMARA: Objection.

4 A They have nothing to do with why
5 I'm here.

6 Q I get to determine why you are
7 here. Do you understand that; yes or no?

8 A But I don't have anything in my
9 wallet that interests you, I repeat to you.

10 Q You don't get to make that
11 determination. I do. That's why I am the
12 lawyer and you're not. You are the witness
13 here. You are supposed to do what I tell you.
14 If you can't do what I tell you, I will send you
15 home and bring you back another day when you
16 can. Because if you can't behave yourself
17 accordingly here, I am going to get a judge to
18 order you to behave yourself.

19 MR. McNAMARA: Objection.

20 Q Do you understand that? Do you
21 understand that; yes or no?

22 A I am behaving myself.

23 Q Clearly not by not answering my
24 questions.

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A I am behaving myself, so please
3 don't scream at me, because I am behaving
4 myself.

5 Q That is not screaming, sir. There
6 may come a time during this deposition where I
7 feel it necessary to scream at you, but that was
8 not screaming. I assure you. You can ask
9 Patrick. He will assure you, as well.

10 MR. McNAMARA: Objection.

11 Q Now, I am going to give you a
12 minute to speak to your attorney. Do you know
13 who your attorney is?

14 A Yes, I know.

15 Q What is his name?

16 A Ian.

17 Q Is he here today?

18 A No. But he is here representing
19 him.

20 Q So this fellow to your right is
21 your attorney, correct?

22 A Yes.

23 Q Do you know his name?

24 A No.

25 Q Would you like me to write it down

1 E. Rivera

2 on a piece of paper so you don't forget it?

3 MR. McNAMARA: Objection.

4 A No.

5 Q His name is Patrick, just like the
6 starfish on Sponge Bob, okay.

7 MR. McNAMARA: Objection.

8 Q Would you like to introduce
9 yourself to your attorney?

10 A I did already.

11 Q Okay. But you forgot his name?

12 A Okay.

13 Q I would like for you, while I go
14 make a photocopy of your identification, to say
15 hello to Patrick and listen to Patrick while
16 Patrick tells you to answer my questions. Do
17 you understand that?

18 MR. McNAMARA: Objection.

19 A Yes.

20 (At this time a break was taken
21 from 9:30 a.m. until 9:33 a.m.)

22 Q Here you go. (Handing.)

23 Mr. Rivera, you had an opportunity
24 to speak to your attorney?

25 A Yes.

1 E. Rivera

2 Q He told you to stop lying to me?

3 MR. McNAMARA: Objection.

4 A No.

5 Q He told you that you should lie to
6 me?

7 A No, no.

8 MR. McNAMARA: Objection.

9 Q He told you to answer my
10 questions, right?

11 A Correct, yes.

12 (A document consisting of a copy
13 of Mr. Rivera's driver's license was
14 marked as Defendants' Exhibit 2 for
15 identification, as of this date.)

16 Q So stop lying to me and answer my
17 questions.

18 What is that document that I just
19 put in front of you?

20 A (Reviewing document.) My driver's
21 license.

22 Q That is a picture of you?

23 A Yes.

24 Q From a long time ago, though,
25 right?

1 E. Rivera

2 A Yes.

3 Q You look much younger here.

4 A Yes.

5 Q Now, do you still live at Three

6 John Street? Use your words.

7 A I lived before at another address.

8 There, I've lived like four years.

9 Q Can I have that back? Okay.

10 So this company that you owe money

11 to, they want to know your address. I want to

12 let them know your address.

13 MR. McNAMARA: Objection.

14 Q Do you see this? You saw this,

15 right, Defendants' Exhibit A? You saw that,

16 right?

17 A Yes, correct.

18 Q They say that your Social Security

19 number is [REDACTED]; is that correct?

20 A That's correct.

21 Q What is your home telephone

22 number?

23 A I don't have a house phone.

24 Q You do have a cell phone, though,

25 right?

1 E. Rivera

2 A Yes.

3 Q Go ahead. Let me get it.

4 A It's [REDACTED].

5 Q The 456 is pretty easy, helps you
6 remember that.

7 You are saying that your address,
8 if I wanted to go knock on your door and pick
9 you up for any reason at all, perhaps going for
10 a hamburger or ice cream, I would go to Three
11 John Street?

12 A Yes.

13 Q So if the authorities wanted to
14 look for you, that is where they would look?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q That is in Bay Shore?

18 A Yes.

19 Q Do you live in a house?

20 A Yes.

21 Q Or an apartment within a house?

22 A It's an apartment in a house.

23 Q Is it a real apartment or just a
24 room?

25 A No, it's an apartment.

1 E. Rivera

2 Q Who do you live in that apartment
3 with?

4 A With my brother.

5 Q What is your brother's name?

6 A Alex.

7 Q Alex Rivera?

8 A Yes.

9 Q Is he a nice guy?

10 A Yes.

11 Q You trust him?

12 A Yes.

13 Q Would you trust him with the
14 contents of your wallet?

15 A Yes.

16 Q What are the contents of your
17 wallet?

18 MR. McNAMARA: Objection.

19 A I repeat, papers with no
20 importance.

21 Q Describe what those papers are to
22 me.

23 MR. McNAMARA: Objection.

24 Q Go ahead, take it out. You can
25 look.

1 E. Rivera

2 A Cards, phone number.

3 Q May I see them?

4 MR. McNAMARA: Objection, no.

5 MR. ZABELL: Let him answer the
6 question.

7 MR. McNAMARA: I am.

8 Q Go ahead.

9 A I repeat, papers --

10 Q I know. I got the papers and
11 cards and numbers.

12 Why can't I see them? What are
13 you embarrassed about?

14 A I am not embarrassed. Simply, I
15 am not going to show them.

16 Q Why? Why are you not man enough
17 to show me?

18 MR. McNAMARA: Objection.

19 A Because I don't want to show them,
20 simply.

21 Q Do you owe anybody else money?

22 A I don't know. I am surprised at
23 that.

24 Q No, you're not. You have been
25 ducking their calls for years.

1 E. Rivera

2 MR. McNAMARA: Objection.

3 Q Do you also owe the Department of
4 Labor money?

5 MR. McNAMARA: Objection.

6 A No.

7 Q Ah-ah, don't lie to me.

8 A No, I paid them.

9 Q You paid them already?

10 A Yeah.

11 Q What did you pay them?

12 A I paid them a week that I was
13 punished for, and I had to pay them back.

14 Q They punished you because you lied
15 to them, right?

16 A I didn't lie to them.

17 Q Ah-ah --

18 A I didn't have any other way to
19 prove otherwise.

20 Q They determined that you lied to
21 them, correct?

22 A I never received the paper that
23 said I had lied, meaning that I had lost the
24 case.

25 Q If you didn't receive that paper,

1 E. Rivera

2 then, how do you know that you had to pay them,
3 or did I catch you in another lie?

4 MR. McNAMARA: Objection.

5 A I paid them before I went to -- to
6 have a hearing with them.

7 Q No, you didn't.

8 A Yes, I paid them before.

9 Q Now I know you are really lying.

10 A I paid before.

11 Q Do you remember that hearing?

12 A Yes.

13 Q Do you know who was at that
14 hearing?

15 A Yes.

16 Q Who was at that hearing?

17 A (Indicating.)

18 Q Do you remember my name?

19 A No.

20 Q Would you like to call me by my
21 first name?

22 A I don't remember the name.

23 Q It's Saul.

24 A Okay, Saul.

25 Q Do you remember when I asked you

1 E. Rivera

2 questions there?

3 A A few, I remember.

4 Q I was nice to you there, right?

5 A Yes, yes.

6 Q Respectful, right?

7 A Yes.

8 Q Does your right breast hurt?

9 A No.

10 Q You are rubbing it like it hurts.

11 A No.

12 Q Do you want an aspirin?

13 A No, I'm fine.

14 Q Okay. At that hearing, do you
15 remember The Hearing Officer say, stop lying?

16 A He didn't say that. I don't
17 remember them saying that.

18 Q You don't?

19 A No.

20 Q Do you have a memory?

21 MR. McNAMARA: Objection.

22 A Of course.

23 Q Is it a good memory?

24 A I think so.

25 Q Well, you don't remember that you

1 E. Rivera

2 owe somebody \$4,000. They are coming after you
3 for it, right? I bet you that they call you
4 every week, right?

5 A No.

6 Q Who is your current employer?

7 A Intercounty.

8 Q And what address do they have?

9 A Let me find it.

10 Q In the wallet, right?

11 A No. In the phone. No, I don't
12 have it.

13 Q Come on, stop it.

14 A I don't have the address. I could
15 describe where it is.

16 Q I know where they are, thank you.

17 A Okay.

18 Q But you are supposed to remember
19 with your good memory.

20 MR. McNAMARA: Objection.

21 A I don't remember the building
22 number.

23 Q How much are you currently making?

24 A Can you repeat the question?

25 Q No. Can you answer the question?

1 E. Rivera

2 A Yes, but I want you to repeat it.

3 Q If you can answer the question,
4 then answer the question. Because there is no
5 need for me to repeat the question.

6 A You want to know how much I'm
7 earning?

8 Q Yes. See? No need to repeat the
9 question.

10 A A week or hour?

11 Q You can start with the hour and
12 then work yourself up to the week.

13 A \$36 an hour and twenty-nine cents.

14 Q That is about \$72,000 a year,
15 right?

16 A No, we don't work the full year.

17 Q I am going to -- are your wages
18 being garnished at all; yes or no?

19 A No.

20 Q Do you owe child support?

21 A No.

22 Q Do you have children?

23 A Yes.

24 Q How many?

25 A Three.

1 E. Rivera

2 Q Three, no wonder you look so
3 tired.

4 A It's just from working.

5 Q How old are your children?

6 A One of my daughters is fifteen.

7 Q I'm sorry.

8 A My son is ten, and my other son is
9 eight.

10 Q Where do you do your banking?

11 A Citibank.

12 Q What branch?

13 A Here in Bay Shore or Brentwood,
14 whichever.

15 Q Okay. We will send this off so
16 they can stop bothering us. You can give that
17 back.

18 What is your country of origin?

19 A Honduras.

20 Q Do you miss Honduras?

21 A Yeah, but I go visit it every
22 year.

23 Q Nice, very nice.

24 When did you come to the United
25 States from Honduras?

1 E. Rivera

2 A In '92.

3 Q How did you come from Honduras to
4 Nueva York?

5 MR. McNAMARA: Objection.

6 A Illegally.

7 Q I didn't ask you that question.
8 Did you come by car, camel, burro?

9 A Car.

10 Q Nice car?

11 A No, just a car.

12 Q Do you remember the color?

13 A No. It was many years ago.

14 Q Where did you first come when you
15 came to the United States?

16 A New York.

17 Q Well, you had to come through some
18 other states before you came to New York. Do
19 you remember what those states were?

20 A Arizona.

21 Q So you crossed over the border in
22 Arizona, correct?

23 A Yes.

24 Q Then, you came right to New York?

25 A Yes, from Arizona, I came to New

1 E. Rivera

2 York.

3 Q So you arrived in New York in
4 1992?

5 A Yes.

6 Q What was your first job in New
7 York?

8 A Construction.

9 Q For who?

10 A I don't remember the name of the
11 company.

12 Q It wasn't that long ago.

13 A Yeah, but I don't remember the
14 name of the company.

15 Q Okay. In '93, who did you work
16 for?

17 A I worked for about two years for
18 that company.

19 Q The company that you don't
20 remember the name of?

21 A No, I don't remember.

22 Q Where did you work in '94?

23 A For a restaurant.

24 Q What restaurant?

25 A It was called Umberto's. I don't

1 E. Rivera

2 know if that is still the name.

3 Q Where was it located, Brentwood?

4 A New Hyde Park.

5 Q Was it a good restaurant?

6 A Yeah.

7 Q Did you ever spit in the food?

8 A No.

9 Q Anybody there ever do that?

10 A No.

11 Q Maybe a little bit?

12 A No.

13 MR. McNAMARA: Objection.

14 Q Okay. How long did you work at
15 Umberto's?

16 A Three, three, four years.

17 Q Now, when you worked for this
18 construction company in '92 and '93, they paid
19 you cash, right?

20 A Correct.

21 Q And when you worked for Umberto's,
22 they paid you cash, right?

23 A Yes.

24 Q You never paid taxes on that,
25 right?

1 E. Rivera

2 A No.

3 Q You know that is committing fraud
4 against the United States, correct?

5 MR. McNAMARA: Objection.

6 A Yes.

7 MR. McNAMARA: I would like all
8 questions and answers arriving therefrom
9 regarding payments to the IRS to be
10 marked as confidential pursuant to the
11 confidentiality agreement.

12 MR. ZABELL: I am advising you now
13 on the record and in writing on the
14 record that I disagree with your
15 designation. There is a stipulation of
16 confidentiality wherein you may, if you
17 so choose, seek to have your designation
18 tested.

19 Do we understand each other,
20 Counselor?

21 MR. McNAMARA: We do, Counselor.

22 MR. ZABELL: Would you like a
23 donut, Counselor?

24 MR. McNAMARA: Okay.

25 Q You worked at Umberto's from 1994

1 E. Rivera

2 to 1997 and you paid no taxes on any of the
3 money that you made, essentially robbing the
4 State of New York and the United States?

5 MR. McNAMARA: Objection.

6 Q Correct?

7 A It wasn't a lot that I earned. It
8 was very little.

9 Q So you just robbed a little?

10 MR. McNAMARA: Objection.

11 Q Si?

12 A That is fine if you say so.

13 Q Of course I say so. So you agree
14 with my statement that you just robbed a little?

15 MR. McNAMARA: Objection.

16 Q Yes or no?

17 A At that point, I didn't know.

18 Q So at that point, you didn't know
19 that you were just robbing a little, you thought
20 you were robbing a lot?

21 MR. McNAMARA: Objection.

22 A No.

23 Q Nobody explained to you that taxes
24 are what we pay to live in a civilized society?

25 A No.

1 E. Rivera

2 Q Where did you work in 1998?

3 A I worked in a factory.

4 Q What was the name of the factory?

5 A Master Molding.

6 Q Did they pay you in check or cash
7 at Master Molding?

8 A In check.

9 Q Did you give them a Social
10 Security number?

11 A Yes.

12 Q What number did you give them?

13 A The one that you have there.

14 Q What number is that?

15 A [REDACTED].

16 Q And is that your Social Security
17 number?

18 A Yes.

19 MR. McNAMARA: Objection.

20 Q Was that issued to you by the
21 Social Security Administration?

22 A No. Immigration sent it to me.

23 Q Okay. Do you know who at
24 immigration?

25 A Immigration, from the law from

1 E. Rivera

2 this country.

3 Q Did you have to pay any money for
4 that?

5 A For the Social, no.

6 Q Okay. That is why I ask you
7 questions and you provide answers to them. This
8 will go much quicker if we do that, okay?
9 Thumbs up?

10 A That's fine.

11 Q There we go.

12 Are you okay? You look a little
13 beat up today.

14 A I worked late, late yesterday.

15 Q Did anybody punch you? You look
16 like you got a fat lip and a black eye.

17 A No. That is the climate.

18 Q The climate is not agreeable to
19 you?

20 A It seems, no. Sometimes when you
21 work outdoors, that's what happens.

22 Q You get beat up?

23 MR. McNAMARA: Objection.

24 A No.

25 Q You don't want me to kiss you, do

1 E. Rivera

2 you?

3 A No.

4 Q Because then stop looking at me
5 and pointing at your lips.

6 A Okay.

7 Q You don't want your actions to be
8 mistaken.

9 MR. McNAMARA: Objection.

10 A Okay.

11 Q So you worked for Master Molding
12 for how many years?

13 A About -- I don't know, four, five
14 years.

15 Q So you worked there until about
16 2003?

17 A About 2002.

18 Q And they only paid you check while
19 you were there, right?

20 A Yes.

21 Q Of course, you paid taxes on all
22 of that money, right?

23 A Yes.

24 Q Where did you work next?

25 A In 2003, I started working for

1 E. Rivera

2 Suffolk Paving.

3 Q When in 2003?

4 A May, I think it was May.

5 Q How did you get the job at Suffolk
6 Paving?

7 A Through a friend that worked
8 there.

9 Q Who was this friend so I can make
10 sure I thank them?

11 A Yeah, I thanked him.

12 Q No, I want to make sure I thank
13 him.

14 What was his name?

15 A Jose.

16 Q Jose what? There are lots of
17 Joses.

18 A The truth is I don't know his last
19 name.

20 Q When was the last time you saw
21 Jose?

22 A He is my friend, but I don't know
23 his last name. I am not sure. I think his last
24 name might be Viegas (phonetic), but I am not
25 sure.

1 E. Rivera

2 Q Viega?

3 A Viegas.

4 Q I will have to make sure that we
5 send him a fruit basket.

6 A That's fine.

7 Q You worked from Suffolk Paving
8 until when?

9 A 2009.

10 Q Did you work for any other
11 companies in between?

12 A No.

13 Q Now, I noticed that you understood
14 the question I asked you and you answered that
15 question before madam interpreter had a chance
16 to interpret it. Consider yourself scolded.
17 Don't do that.

18 MR. McNAMARA: Objection.

19 Q Are we clear?

20 A Okay.

21 Q I don't want to give you the
22 opportunity to say that you misunderstood my
23 questions. So that is why we are going through
24 the precaution of having madam interpreter
25 interpret every word that I say so we give you

1 E. Rivera

2 no excuses.

3 A That's fine.

4 Q Do you understand that?

5 A I understand.

6 Q Would you like to apologize to
7 madam interpreter now?

8 MR. McNAMARA: Objection.

9 A I apologize.

10 Q Okay. I hope she accepts that.

11 In 2003, when you started working
12 at Suffolk Paving, how much were you paid?

13 A I started earning \$18 an hour.

14 Q Fair pay, right?

15 A Yeah.

16 Q Were you paid in cash or check at
17 Suffolk Paving?

18 A Check.

19 Q You received a check for every
20 week that you worked between 2003 and 2009,
21 correct?

22 A Correct.

23 Q The checks had stubs on them,
24 correct?

25 A Yes.

1 E. Rivera

2 Q And those stubs listed the hours
3 that you worked, correct?

4 A Yes.

5 Q You received more than \$18 an hour
6 sometimes, correct; yes or no?

7 A When I worked for Suffolk Paving,
8 no.

9 Q You never got more than \$18 an
10 hour at Suffolk Paving? Don't lie to me.
11 Because you know I know the answer.

12 MR. McNAMARA: Objection.

13 Q No excuses, just answer my
14 question. Just answer yes or no.

15 MR. McNAMARA: Objection.

16 A I have to explain.

17 Q No, you don't. You have to answer
18 my question. If you want to explain, you
19 explain to Patrick over there.

20 A Okay, then I am going to explain
21 to Patrick.

22 Q After you answer my question.

23 A Yes, I received more.

24 Q You see? I knew that. You know I
25 know most of the answers to the questions,

1 E. Rivera

2 right?

3 MR. McNAMARA: Objection.

4 A Yes.

5 Q There's very little that is coming
6 as a surprise to me here. You know that, right?

7 A I don't know.

8 Q I am assuring you of that.

9 MR. McNAMARA: Objection.

10 A Okay.

11 Q So I know when you are lying.

12 Just like Santa Clause, I know when you are
13 being naughty, and I know when you are being
14 nice.

15 MR. McNAMARA: Objection.

16 Q Okay?

17 A Okay.

18 Q So don't be naughty.

19 A I am not naughty.

20 Q A little bit. The times that you
21 lied to me indicate that you are being naughty.

22 MR. McNAMARA: Objection.

23 Q So you worked for Suffolk Paving
24 in 2003, correct?

25 A Yes.

1 E. Rivera

2 Q The whole year of 2003?

3 A No, I started in May.

4 Q And you stopped when?

5 A In December.

6 Q Right. Because there's a paving
7 season, correct?

8 A Yes.

9 Q And paving season starts every
10 year between April or May and goes through
11 November, December, correct?

12 A Yes.

13 Q So every year, you would get laid
14 off in December from Suffolk Paving, correct?

15 A Yes.

16 Q Wait until madam interpreter
17 interprets the full question. Okay?

18 A Okay.

19 Q Look at me. I am serious. It's
20 for your benefit. Okay?

21 A Okay.

22 Q Because if you are telling me that
23 you don't need an interpreter, we will send
24 madam interpreter home, and I don't know if you
25 want to do that.

1 E. Rivera

2 A No, I don't want to do that.

3 Q I don't want to do that, either.

4 I like this woman. She laughs at my jokes.

5 Nobody does that anymore. Okay?

6 A Okay.

7 Q That cell phone number that you
8 gave me, is that really your cell phone number?

9 A Yes.

10 MR. McNAMARA: Objection.

11 Q Are you sure?

12 MR. McNAMARA: Objection.

13 A Sure.

14 Q Are you positive?

15 A I have it silenced, but there you
16 go.

17 MR. ZABELL: Let the record
18 reflect that I dialed that number, and it
19 appears as though his cell phone was
20 ringing.

21 Q I like it when you are honest.

22 MR. McNAMARA: Objection.

23 Q Let's try and be more honest,
24 okay?

25 A That's fine.

1 E. Rivera

2 Q Okay. Now, when did you get that
3 telephone number?

4 A I don't remember, a couple of
5 years ago.

6 Q In 2009?

7 A I don't want to lie. I don't
8 remember the year.

9 Q Did you get it maybe in 2010?

10 A I don't want to give you a year,
11 because I don't want to be dishonest.

12 Q Okay. So you have no -- you don't
13 remember?

14 A The year, I don't remember.

15 Q Do you remember the telephone
16 number that you had before that number?

17 A No, I don't remember the number.

18 Q Is it possible that you got that
19 number after you stopped working at Suffolk
20 Paving in December of '09?

21 A No, I had it before.

22 Q Are you sure?

23 A Yes.

24 Q Now, did they ever call you on
25 that number from Suffolk Paving?

1 E. Rivera

2 A Yes, when I worked with them.

3 Q Why would they call you on that
4 number?

5 A For the jobs.

6 Q Right. They would call you and
7 tell you where to show up the next day, right?

8 MR. McNAMARA: Objection.

9 A No. They would call me to tell me
10 what I had to do when I was working.

11 Q Do you know Flower Hill? Did you
12 ever hear of a job called Flower Hill?

13 A Yes. That is where I worked.

14 Q How long did you work there?

15 A I'm not sure, but I think almost a
16 whole year.

17 Q Right, almost a whole year.

18 You drove directly from your home
19 to Flower Hill every day, correct?

20 A Sometimes yes, sometimes no.

21 Q Always yes?

22 A No, not always.

23 Q Ah-ah, look at me.

24 MR. McNAMARA: Objection.

25 Q Do you want to change your answer?

1 E. Rivera

2 A No.

3 Q I know you don't want to change
4 your answer. Do you think it's necessary to
5 change your answer to make your answer complete
6 and accurate?

7 MR. McNAMARA: Objection.

8 Q Remember, you promised not to lie
9 to me.

10 A I am not lying.

11 Q I think you are.

12 A At Flower Hill, sometimes I go to
13 the yard to look for tools or things that I
14 would need.

15 Q Okay. Your job is not
16 complicated. What kind of tools do you need?

17 A Sometimes I would need the blades
18 for the saws.

19 Q That's it?

20 A Brooms, shovels, or I needed to
21 change the type of car I had.

22 Q Are you finished?

23 A Yes.

24 Q Brooms and shovels, you had on the
25 job site, correct?

1 E. Rivera

2 A I would have them with me, but
3 when they would break, I would go get some more.

4 Q Or sometimes people would bring
5 them from the yard to Flower Hill, correct?

6 A Not mine.

7 Q Oh, you have your own special
8 rakes and shovels?

9 A No, they are the same, but I had
10 my tools, and the other people had their own
11 tools.

12 Q Did you own those tools, or were
13 they Suffolk Paving's tools?

14 A They were tools of Suffolk Paving.

15 Q So anybody could have brought you
16 those Suffolk Paving tools, right?

17 A Yes. Anybody could, but nobody
18 would bring them.

19 Q I don't believe you.

20 A Okay.

21 Q You don't believe yourself,
22 either, right?

23 A I'm sure of what I am saying.

24 Q You are sure what you are saying
25 is a lie, correct?

1 E. Rivera

2 A I'm not lying.

3 Q Even Patrick thinks you're lying.

4 Look at him. Look at his eyes. Look. He
5 thinks -- see? He can't even look at you. That
6 is your lawyer.

7 MR. McNAMARA: Objection,
8 Counselor.

9 MR. ZABELL: You are not his
10 lawyer?

11 MR. McNAMARA: No, just continue
12 with the questioning.

13 Q I warned you what happens when you
14 lie.

15 A I'm not lying.

16 Q Yes, you are.

17 A No, I'm not lying.

18 Q Okay. Did you prepare for this
19 deposition in any way?

20 A Yes.

21 Q How did you prepare?

22 A With my friends that came before,
23 they told me what they were going to be talking
24 about.

25 Q Who did you speak with?

1 E. Rivera

2 A With the last one that came,
3 Marcus, I think.

4 Q He was a nice guy, Marcus Tulio
5 Perez.

6 A Okay.

7 Q You find him to be honest?

8 A Yes.

9 Q When did you speak to Marcus Tulio
10 Perez?

11 A The day that he left here, in the
12 evening.

13 Q He told you that I was a nice guy,
14 right?

15 A He didn't tell me anything about
16 you.

17 Q Now, Marcus Tulio Perez told you
18 things to help you to prepare for today's
19 deposition, right?

20 MR. McNAMARA: Objection.

21 A He didn't help me in anything.

22 Q He is not very helpful, right?

23 A No.

24 Q Is he a jerk?

25 A No.

1 E. Rivera

2 Q Nice guy?

3 A Yeah, he's my friend.

4 Q He is just not a very helpful
5 friend?

6 A He didn't -- what he told me
7 didn't help me in anything.

8 Q Good. What did he tell you?

9 A To come prepared to answer
10 questions that had nothing to do with the case.

11 Q Did you come prepared to answer
12 questions that have nothing to do with the case?

13 A I'll answer them.

14 Q Are you prepared?

15 A To answer you, yes.

16 Q Are you prepared to answer
17 questions that have everything to do with the
18 case?

19 A With the case, yes.

20 Q Are you prepared to understand
21 that you may not be smart enough to understand
22 the difference?

23 MR. McNAMARA: Objection.

24 A I don't understand the question.

25 Q I'm sure you don't. That's a good

1 E. Rivera

2 enough answer.

3 So in 2003, you worked for Suffolk
4 Paving, correct?

5 A Correct.

6 Q You made \$18 an hour, correct?

7 A Correct.

8 Q Sometimes you made more per hour,
9 correct?

10 A Correct.

11 Q You drove your car to the worksite
12 sometimes, correct?

13 A Correct.

14 Q What was your job title?

15 A When I started working, I started
16 working with the repairing crew.

17 Q It's good work, right?

18 A Yes.

19 Q Hard work, correct?

20 A Yes.

21 Q But the pay was good, right?

22 A It was good.

23 Q You never got paid \$18 an hour
24 before, correct?

25 A No.

1 E. Rivera

2 Q So that was the most money that
3 you had been making, correct?

4 A Yes.

5 Q And you used that money to provide
6 for your children, correct?

7 A Yes.

8 Q And when you were finished
9 providing for your children, you gave the rest
10 of that money to your wife, correct?

11 A No.

12 Q Why not?

13 A Because, no.

14 Q You didn't trust her?

15 A No, but I was the one who handled
16 the house affairs and stuff.

17 Q What was your wife's name in 2003?

18 A Nora.

19 Q Nora what?

20 A Nora Rivera. She had my last
21 name.

22 Q So you were actually married to
23 her?

24 A Yes.

25 Q In accordance with the laws of the

1 E. Rivera

2 State of New York, correct?

3 A Yes.

4 Q Are you still married to Nora?

5 A Yes.

6 Q Do you live with Nora?

7 A No.

8 Q You left her?

9 A We separated.

10 Q Why?

11 A She decided for us to separate.

12 Q Why?

13 A I don't know.

14 Q Did you ever lie to her?

15 A No.

16 Q Not even a little bit?

17 A No.

18 Q You never told her that you were
19 working when you were out with your friends?

20 A No.

21 Q Is Nora the mother of all your
22 children?

23 A No.

24 Q Oh, is Nora the mother of any of
25 your children?

1 E. Rivera

2 A She is of the two children.

3 Q When did you separate from Nora?

4 A Six, seven years.

5 Q And how old is your youngest?

6 A Eight.

7 Q Uh-huh. Is that why she left you,
8 because you had a baby with another woman?

9 MR. McNAMARA: Objection.

10 A No.

11 Q So you were still with her when
12 you had a baby with another woman?

13 MR. McNAMARA: Objection.

14 A I haven't had a baby with anybody
15 else.

16 Q Okay. You said Nora is the mother
17 of two of your children.

18 A Yes.

19 Q You testified before that you have
20 three children?

21 A Yes, correct.

22 Q If you only have two children with
23 Nora and you have three children total, you had
24 to have a baby with another person, right,
25 unless you adopted?

1 E. Rivera

2 A Two and three years before I got
3 married with Nora, I had a baby with another
4 woman.

5 Q Okay. So you lied to me when you
6 said that you had no other children?

7 A No, I didn't lie. No, I haven't
8 lied to you.

9 Q Okay. You have three children,
10 correct?

11 A Correct.

12 Q And two baby mamas?

13 MR. McNAMARA: Objection.

14 A Yes.

15 Q You should have just said that.
16 Are all your children in the
17 United States?

18 A Yes.

19 Q Do you have any children from
20 outside the United States?

21 A No.

22 Q Are you sure?

23 MR. McNAMARA: Objection.

24 A Sure.

25 Q Now, why did Nora want a divorce

1 E. Rivera

2 from you?

3 A She hasn't spoken to me about a
4 divorce.

5 Q You are not living with Nora
6 anymore, right?

7 A No.

8 Q Are you living with another woman
9 right now?

10 A I have a girlfriend.

11 Q Good for you. I am very proud of
12 you.

13 Do you live with her?

14 A Yes.

15 Q Then, why didn't you just answer
16 my question?

17 A I am answering it.

18 Q Who is this other woman?

19 A My girlfriend.

20 Q Does your girlfriend have a name?

21 A Yes.

22 Q Would you like to share that with
23 me?

24 A No.

25 Q I am going to tell you to tell me

1 E. Rivera

2 what her name is.

3 A I have to tell you?

4 Q Yes, you do.

5 MR. ZABELL: Patrick, he is
6 looking at you for help.

7 THE WITNESS: Patrick, do I have
8 to?

9 MR. McNAMARA: You have to answer
10 his question.

11 Q I wouldn't ask if you didn't have
12 to tell me.

13 A But it's something personal.

14 Q I know. But what if she says
15 you're a lying, cheating thief? She would be a
16 great witness for me.

17 MR. McNAMARA: Objection.

18 A Okay. Her name is Sandra.

19 Q Like her (indicating).
20 Sandra what?

21 A Martinez.

22 Q And she lives with you in Bay
23 Shore?

24 A No, she lives at another address.

25 Q Didn't I just ask you if she lives

1 E. Rivera

2 with you and you said yes?

3 A You didn't just ask me that.

4 Q Did I ask you that at all today?

5 A No, I don't remember.

6 MR. ZABELL: Patrick, do you
7 remember me asking him that question?

8 MR. McNAMARA: I have a vague
9 recollection of it.

10 Q I think you are fibbing. You seem
11 like a nice guy. I don't want to believe that
12 you are fibbing, but you are fibbing,
13 nonetheless.

14 MR. McNAMARA: Objection.

15 Q So I am going to warn you one last
16 time. I am going to say it with a smile on my
17 face and kindness in my heart. But if you don't
18 stop lying to me, I am going to come down on you
19 in ways that you will be uncomfortable with.

20 Do you understand me?

21 A Yes, I understand.

22 Q Would you like to apologize now?

23 MR. McNAMARA: Objection.

24 A No, because I haven't lied to you.

25 MR. ZABELL: Madam reporter, did I

1 E. Rivera

2 ask this man whether or not he lived with
3 his girlfriend before?

4 THE COURT REPORTER: I can check
5 the record.

6 MR. ZABELL: Please check the
7 record. She is going to find out if you
8 are a liar.

9 MR. McNAMARA: Objection.

10 (Whereupon, the requested
11 testimony was read back by the Court
12 Reporter.)

13 Q So it is clear from the record
14 that you are a liar.

15 MR. McNAMARA: Objection.

16 Q Would you like to apologize; yes
17 or no?

18 A I want to explain something.

19 Q No, you cannot explain anything.
20 That is why you have a lawyer. If your lawyer
21 needs you to explain something, your lawyer will
22 ask you the question.

23 Right now, it is your
24 responsibility to only answer my questions. So
25 my question right now is: Would you like to

1 E. Rivera

2 apologize for lying to me?

3 MR. McNAMARA: Objection.

4 Q Yes or no?

5 A You interpreted wrong, the
6 question.

7 THE INTERPRETER: I asked him if
8 he meant that I interpreted the question
9 wrong. He said that you interpreted the
10 question wrong.

11 Q Would you like to apologize; yes
12 or no?

13 MR. McNAMARA: Objection.

14 A I haven't lied to you.

15 Q Okay. The record reflects
16 something very different.

17 Did you ever lie to get out of
18 trouble?

19 A No, because I don't have any
20 problems.

21 Q Did you ever lie to your mother so
22 she wouldn't punish you?

23 A No, my mom was a good person with
24 me.

25 Q If she was a good person, she

1 E. Rivera

2 would have punished you for lying, right?

3 MR. McNAMARA: Objection.

4 A I imagine so.

5 Q You never told your wife that she
6 looked good when she didn't?

7 A No, I never said that.

8 Q You never said to her that she
9 looked very flattering in those jeans when they
10 weren't so flattering?

11 A I never said anything like that.

12 Q You never said anything to her
13 that you loved her more than the first time that
14 you met her?

15 A No.

16 Q You never said any little lies
17 just to make your life a little easier?

18 MR. McNAMARA: Objection.

19 A No.

20 Q Do you want to think about that
21 for a minute?

22 A No.

23 Q What did you eat for breakfast
24 today?

25 A Coffee. That's it, just coffee.

1 E. Rivera

2 Q Do you ever eat breakfast?

3 A Yeah, late like 10:00 or 11:00.

4 Q Like an egg sandwich?

5 A No, I always take my food to work.

6 Q What do you take to work for you?

7 A Frijoles, cheese, rice.

8 Q Every day, you would eat around

9 10:00 at work?

10 MR. McNAMARA: Objection.

11 A 9:00, 10:00.

12 Q Nine out of ten times, you would?

13 MR. McNAMARA: Objection.

14 A No, no. 9:00 in the morning or

15 10:00 in the morning.

16 Q So every morning at 9:00 or 10:00,
17 you would eat your breakfast?

18 MR. McNAMARA: Objection.

19 A Uh-huh.

20 Q You have done that every morning
21 since -- for the last ten years?

22 A I am talking about now, from now.

23 Q I just asked you if you always eat
24 breakfast, and you say that you always eat
25 breakfast around 9:00 or 10:00 in the morning.

1 E. Rivera

2 A Right now, yes, now, yes.

3 Q How about in 2003, when you were
4 working for Suffolk Paving making \$18 an hour
5 and your paychecks reflected all the hours that
6 you worked?

7 MR. McNAMARA: Objection.

8 A I would bring my food and when
9 there was an opportunity, I would eat.

10 Q Sometime around 9:00 or 10:00 in
11 the morning, right?

12 A Sometimes I would do it when I was
13 working for them; as I was driving, I would eat.

14 Q When you were driving to the job
15 site from your home, correct?

16 MR. McNAMARA: Objection.

17 A No, when I was working with
18 another coworker, he would be driving and I
19 would be eating and then we would switch off.

20 Q Who was that coworker?

21 A Jose.

22 Q Jose, the guy whose name that you
23 can't remember?

24 A Viegas, I'm not sure.

25 Q Is Jose Viegas suing, like you

1 E. Rivera

2 are?

3 A No, I don't think so.

4 Q Do you know why?

5 A It's been a lot of years since he
6 hasn't worked there.

7 Q And he's an honest guy, right?

8 A Simply that he was fired, also.

9 Q Why was he fired?

10 A I don't know.

11 Q Do you think you were fired
12 because you're Spanish or Hispanic, excuse me?

13 A No.

14 Q Now, in 2003, were you treated
15 fairly by Suffolk Paving?

16 A Yes.

17 Q They paid you good money, right?

18 A They paid me good money, but they
19 didn't pay me overtime.

20 Q Answer my questions. They paid
21 you good money, correct?

22 A Yes.

23 Q And every week, you got a
24 paycheck, correct?

25 A Yes.

1 E. Rivera

2 Q And every paycheck had a pay stub
3 on it, correct?

4 A Yes.

5 Q Those pay stubs indicated all the
6 hours that you worked, correct?

7 A Yes, but it wasn't correct.

8 Q I just asked you the question and
9 you answered my question, correct?

10 A Yes.

11 Q Now, in 2004, how much did you
12 make an hour?

13 A I don't remember. It went rising
14 a little bit, but I don't remember.

15 Q So you got a pay increase,
16 correct?

17 A Yes. I got a pay increase, a
18 little bit.

19 Q You also worked for Suffolk Paving
20 then, correct?

21 A Yes.

22 Q You only worked for Suffolk Paving
23 in 2003 and 2004, correct?

24 A Yes.

25 Q You didn't work for any other

1 E. Rivera

2 companies then, correct?

3 A No.

4 Q And you worked and you were paid
5 for every week you worked, correct?

6 A Yes.

7 Q And you were paid by check,
8 correct?

9 A Yes.

10 Q And those checks came with a stub,
11 correct?

12 A Yes.

13 Q And the stub indicated the hours
14 you worked, correct?

15 A Yes.

16 Q Now, in 2005, who did you work
17 for?

18 A For the same; Suffolk Paving.

19 Q You only worked for Suffolk Paving
20 in 2005, correct?

21 A Yes.

22 Q And every week you worked for
23 Suffolk Paving in 2005, you received a check,
24 correct?

25 A Yes.

1 E. Rivera

2 Q And those checks came with a pay
3 stub on them, correct?

4 A Yes.

5 Q And the pay stub indicated all the
6 hours that you worked, correct?

7 A Yes.

8 Q In 2006, who did you work for?

9 A For the same company.

10 Q What company is that? I need you
11 to say it.

12 A Suffolk Paving.

13 Q You only worked for Suffolk Paving
14 in 2006, correct?

15 A Yes.

16 Q And in 2006, for every week you
17 worked, you received a paycheck, correct?

18 A Correct.

19 Q Every paycheck you received had a
20 little pay stub on it, correct?

21 A Correct.

22 Q That pay stub indicated all the
23 hours that you worked, correct?

24 A Yes.

25 Q Who did you work for in 2007?

1 E. Rivera

2 A It was the same company, but it
3 changed over to Suffolk Asphalt.

4 Q So in 2007, you worked for Suffolk
5 Asphalt, correct?

6 A Yes.

7 Q For every week you worked for
8 Suffolk Asphalt, you got a paycheck, correct?

9 A Yes.

10 Q Those paychecks came with a little
11 pay stub, correct?

12 A Yes.

13 Q The pay stub indicated all the
14 hours that you worked, correct?

15 MR. McNAMARA: Objection.

16 A No.

17 Q So something changed in 2007?

18 A All the years in 2007 and all the
19 years after.

20 Q In 2007, you're saying that your
21 pay stubs did not indicate the hours that you
22 worked; yes or no?

23 A Not all the hours.

24 Q So in 2007, did your pay stub
25 indicate the hours you worked?

1 E. Rivera

2 MR. McNAMARA: Objection.

3 Q Yes or no?

4 A It indicated the hours, but it
5 wasn't correct.

6 Q Now, in 2004, you said you
7 received \$18 an hour, correct?

8 A Yes.

9 Q Sometimes you get paid more than
10 \$18 an hour, correct; yes or no?

11 A Yes.

12 Q In 2005, you received a little bit
13 more than \$18 an hour, correct?

14 A Yes.

15 Q Sometimes the hours you worked,
16 you would get an even higher rate, correct; yes
17 or no?

18 A Yes.

19 Q In 2006, do you remember how much
20 you got paid an hour?

21 A No, I don't remember.

22 Q About \$19 an hour, \$20 an hour?

23 A I don't remember.

24 Q Whatever you got paid per hour,
25 there were hours that you got an even higher

1 E. Rivera

2 rate of pay on, correct?

3 A Yes.

4 Q Sometimes double what your hourly
5 rate was, correct?

6 A No.

7 Q Triple?

8 A No.

9 Q Do you have any recollection how
10 much you got paid per hour?

11 A No, I don't remember.

12 Q Do you have any recollection what
13 those higher rates of pay were?

14 A No, I don't remember.

15 Q You have no recollection at all?

16 A No.

17 Q Not even with that good memory of
18 yours?

19 A I don't remember.

20 Q Is there anything that you could
21 look at that would help you remember?

22 A No.

23 Q Okay. So in 2007, you started
24 working for a company called Suffolk Asphalt,
25 correct?

1 E. Rivera

2 A Yes.

3 Q Do you know what your hourly rate
4 of pay was at Suffolk Asphalt?

5 A I want to say I think they started
6 at \$27-something.

7 Q Nice. Good rate of pay, right?

8 A Yeah, that was the union.

9 Q Is that a good thing or a bad
10 thing?

11 A It's a good thing.

12 Q Except the union would take some
13 of your money, right?

14 A That's good.

15 Q It's good to give the union some
16 of your money, right?

17 A It's good working with the union.

18 Q Because the union looks out for
19 you, right?

20 A Yes.

21 Q You always have the ability to
22 complain to the union, right?

23 A Yes.

24 Q You knew how to explain to the
25 union, right?

1 E. Rivera

2 A Yes.

3 Q Do you know what prevailing wage
4 is?

5 A Yes.

6 Q What is prevailing wage?

7 A Prevailing wage is when you work
8 for the Town or for a school.

9 Q Now, when you worked at Suffolk
10 Paving, sometimes you would get paid prevailing
11 wage rates, correct?

12 A Yes.

13 MR. ZABELL: Let's go off the
14 record.

15 (Whereupon, a discussion was held
16 off the record.)

17 Q When you worked at Suffolk Paving,
18 you did work on prevailing wage jobs, you got
19 paid prevailing wage rates, correct?

20 A Yes.

21 Q You are not suing for any
22 prevailing wage payments, correct?

23 A No.

24 Q So whenever you worked on a
25 prevailing wage job from 2003 all the way up to

1 E. Rivera

2 2009, for either Suffolk Paving or Suffolk
3 Asphalt, you got paid prevailing wages, correct?

4 A From 2007, I started working for
5 the union. I did not get prevailing wage.

6 Q Did you work on any prevailing
7 wage jobs?

8 A When you work for the union,
9 prevailing wage doesn't exist anymore.

10 Q It does exist, but the prevailing
11 wage rate is the same as the union rate. Did
12 you know that? Did you know that?

13 A I had heard something about that,
14 but I hadn't paid attention.

15 Q Okay. So you don't always
16 understand what you are supposed to get paid,
17 correct?

18 MR. McNAMARA: Objection.

19 A I am happy with the union.

20 Q So you are happy ever since you
21 got into the union, correct?

22 A Yes.

23 Q Everything has been good ever
24 since you got into the union, right?

25 A Yes.

1 E. Rivera

2 Q If you had any problems, you would
3 complain to the union, correct?

4 A Yes.

5 Q Have you ever complained to the
6 union?

7 A No.

8 Q You are not claiming that you are
9 owed any prevailing wage payments, are you?

10 A What I am suing for is the hours
11 that they owe me, overtime hours.

12 Q Are you claiming that any of those
13 hours are prevailing wage hours?

14 A Yes, some of them were prevailing
15 wage.

16 Q Which ones?

17 A I don't remember. Many places
18 where we worked.

19 Q You have to tell me where.

20 A I don't remember.

21 Q Is there anything that you could
22 look at that will help you remember?

23 A No, there's nothing. I don't
24 remember.

25 Q Did you ever --

1 E. Rivera

2 A I don't want to lie to you and
3 tell you it was someplace.

4 Q There is nothing that you can look
5 at to help you remember?

6 A No, nothing here.

7 Q When did you complain to the union
8 that you weren't getting paid what you were
9 supposed to get paid?

10 MR. McNAMARA: Objection.

11 A I didn't complain to the union
12 until after I left Suffolk Paving.

13 Q What year was that?

14 A 2009, when they found me another
15 job for 2010.

16 Q In 2008, you worked for Suffolk
17 Asphalt?

18 A Yes.

19 Q You received a paycheck for every
20 week you worked, correct?

21 A Yes.

22 Q Attached to that paycheck was a
23 pay stub, correct?

24 A Yes.

25 Q That pay stub indicated the hours

1 E. Rivera

2 that you worked, correct?

3 MR. McNAMARA: Objection.

4 A Yes, but it wasn't correct.

5 Q You went to the union to tell them
6 it wasn't correct, correct?

7 MR. McNAMARA: Objection.

8 A No, I didn't go.

9 Q In 2009, you worked for Suffolk
10 Asphalt, correct?

11 A Yes, correct.

12 Q For every week you worked, you
13 received a paycheck, correct?

14 A Yes.

15 Q And that paycheck had a little pay
16 stub attached to it, correct?

17 A Yes.

18 Q And that pay stub indicated the
19 hours that you worked, correct?

20 MR. McNAMARA: Objection.

21 A The hours weren't correct.

22 Q Did you look at the pay stub?

23 A Yes.

24 Q Can you read English?

25 A But I understood the hours that I

1 E. Rivera

2 worked.

3 Q Answer my question: Can you read
4 English?

5 A No.

6 Q Then, how do you know what the pay
7 stub said?

8 A You learn that.

9 Q I learn that?

10 A Me, I am the one who learned how
11 to read it.

12 Q So you do know how to read?

13 MR. McNAMARA: Objection.

14 Q Yes or no?

15 A I could read what the pay stub
16 said.

17 Q Okay. Did you ever receive
18 overtime when you worked for Suffolk Asphalt?

19 A Yes.

20 Q You would receive overtime when
21 you worked overtime, correct?

22 A Sometimes.

23 Q But you always got your straight
24 time pay, correct?

25 A Sometimes.

1 E. Rivera

2 Q You didn't get paid straight time
3 for the hours that you worked?

4 A They didn't pay me all the hours
5 that I worked.

6 Q When you didn't get paid the hours
7 that you worked, you complained to the union,
8 right?

9 A No.

10 Q Why, you were lazy?

11 A No, I complained to the owner of
12 the company.

13 Q Who was that?

14 A Louie Vecchia.

15 Q So Louie Vecchia is the owner of
16 Suffolk Asphalt?

17 A As far as I know, he is not the
18 owner of the company. The owner is his son, but
19 his son -- he would say his father was the
20 owner.

21 Q You actually spoke to his son?

22 A Yes. When they didn't pay us the
23 overtime, he would say, speak to my father.

24 Q We are talking about getting paid
25 straight time.

1 E. Rivera

2 Did you get paid straight time?

3 A The hours that I worked, they paid
4 them, but it wasn't correct.

5 Q Do you know why you are here
6 today?

7 A Yes, because I am suing for the
8 hours that they didn't pay me that were
9 overtime.

10 Q So you are only suing for overtime
11 payments, correct?

12 MR. McNAMARA: Objection.

13 Q Yes or no?

14 A Yes.

15 Q So you are not suing for any
16 straight time payments, correct?

17 A I don't know what you mean by
18 that.

19 Q Okay. You are suing for overtime,
20 correct?

21 A Yes.

22 Q You are not suing for straight
23 time?

24 A I don't know what you mean by
25 "straight time."

1 E. Rivera

2 Q You are not suing for regular
3 time?

4 A No.

5 Q So you are only suing for the
6 hours you worked over forty hours a week,
7 correct?

8 MR. McNAMARA: Objection.

9 A Yes.

10 Q So up to forty hours a week, you
11 were paid correctly?

12 MR. McNAMARA: Objection.

13 A Yes.

14 Q Okay. I just want to make sure
15 that we understand each other.

16 So you are only suing for hours
17 that you actually worked over forty hours in a
18 week, correct?

19 MR. McNAMARA: Objection.

20 A No.

21 Q You just said yes. Now you are
22 saying no.

23 A Can I explain?

24 Q No.

25 A No.

1 E. Rivera

2 Q You have a lawyer for that. You
3 have to answer my questions.

4 A Okay.

5 Q You just said you are not suing
6 for anything under forty hours a week, that you
7 are only suing for time that you actually worked
8 over forty hours in a week.

9 MR. McNAMARA: Objection.

10 Q Do you understand that?

11 A Yes, I understand.

12 Q Is that accurate?

13 A Yes, it's correct.

14 Q Okay. So hours that you would
15 have worked from zero to forty hours is regular
16 or straight time.

17 MR. McNAMARA: Objection.

18 Q Do you understand that?

19 A No, I don't understand that.

20 Q It's regular time.

21 What was your regular rate of pay
22 at Suffolk Asphalt?

23 A Each year it changed. It started
24 at \$27.

25 Q Okay. What were you supposed to

1 E. Rivera

2 get paid \$27 an hour for?

3 A For eight hours of work.

4 Q Eight hours of work or forty hours
5 of work a week?

6 A Eight hours a day. That's it.

7 Q How do you know that?

8 A I know it's eight hours that you
9 are supposed to work. If you work four hours,
10 they pay you for four hours. If you work one
11 hour, they pay you for one hour.

12 Q Sometimes you only worked one
13 hour?

14 A No.

15 Q Sometimes you worked four hours?

16 A Yeah, sometimes we worked four
17 hours during a day.

18 Q Sometimes you didn't work at all?

19 A Correct.

20 Q So some days, you would go home
21 without any pay?

22 A Yeah, when you didn't work, there
23 was no pay.

24 Q Right. There were weeks when you
25 didn't work days, correct?

1 E. Rivera

2 A Yes.

3 Q Do you know what a collective
4 bargaining agreement is?

5 A No.

6 Q Do you know what a union contract
7 is?

8 A No.

9 Q Do you know what the terms and
10 conditions of your employment with Suffolk
11 Asphalt were?

12 A No.

13 Q Do you know who determines the
14 terms and conditions of your employment with
15 Suffolk Asphalt?

16 A No.

17 Q Do you know what the workplace
18 rules are?

19 A The ones that were at Suffolk
20 Paving, I did know.

21 Q What were the rules at Suffolk
22 Paving?

23 A Work when you got to the job and
24 do the work and do it well.

25 Q Did you?

1 E. Rivera

2 A Yes, I did it well.

3 Q You got paid every week, right?

4 A Yes.

5 Q You made a good living, correct?

6 A Yes.

7 Q You made more money there than you
8 had ever made before in your life, correct; yes
9 or no?

10 A Every year it changed, yes, yes.

11 Q But every year, you made more and
12 more money, right?

13 A Yeah, there were some years that
14 were more, there were some years that were less.

15 Q And did you ever do any work on
16 any -- any side work?

17 A No.

18 Q You never did a driveway here or
19 there?

20 MR. McNAMARA: Objection.

21 A No.

22 Q I know you are lying.

23 MR. McNAMARA: Objection.

24 A Maybe I did a driveway to help out
25 my friends.

1 E. Rivera

2 MR. ZABELL: We are going to take
3 a quick break.

4 (At this time a break was taken
5 from 10:49 a.m. until 10:54 a.m.)

6 MR. ZABELL: What was the last
7 question?

8 (Whereupon, the requested
9 testimony was read back by the Court
10 Reporter.)

11 Q Before we just took a break, you
12 lied to me.

13 MR. McNAMARA: Objection.

14 Q Right?

15 A Yes, but I didn't do a driveway to
16 make money. It was to help my friends.

17 Q You lied to me?

18 A If you say so.

19 Q I do say so. Do you agree with
20 me?

21 MR. McNAMARA: Objection.

22 A No, I am not in agreement.

23 Q I asked you a simple question.

24 You told me, no, you never did any side work,
25 then you changed your answer and said, yes, you

1 E. Rivera

2 did do side work.

3 So stop lying to me. I told you
4 it's only going to make me angry.

5 A Okay.

6 Q It reflects poorly on you.

7 MR. McNAMARA: Objection.

8 Q It's also perjury.

9 A I only tried to explain things to
10 you.

11 Q I don't want you to explain. I
12 want you to answer. You are not a lawyer.
13 Lawyers explain. You are a plaintiff.
14 Plaintiffs answer my questions. And if you
15 can't answer my question, say you're sorry, and
16 come back when you can.

17 MR. McNAMARA: Objection.

18 Q Are you clear?

19 A Yes.

20 Q Do you want to apologize to me for
21 lying now?

22 MR. McNAMARA: Objection.

23 A I haven't lied to you.

24 Q You just lied. We just went
25 through it.

1 E. Rivera

2 A Maybe you don't understand me.

3 Maybe I don't understand you.

4 Q Maybe you don't understand what it
5 means to be honest and truthful.

6 MR. McNAMARA: Objection.

7 A I am being honest.

8 Q What does it mean to be honest?

9 A That I am saying the truth.

10 Q Right. But I've asked you
11 questions throughout the day where you haven't
12 told me the truth.

13 Do you remember those?

14 A I haven't lied to you.

15 Q So you are saying you have only
16 said the truth here?

17 A I've told you the truth.

18 Q And only the truth?

19 A Only the truth.

20 Q So help you Jesus?

21 A Yes.

22 Q Why are you looking down?

23 A I'm listening to you, what she is
24 saying.

25 Q Are you a religious man?

1 E. Rivera

2 A Yes.

3 Q When was the last time you went to
4 church?

5 MR. McNAMARA: Objection.

6 A Sunday.

7 Q Are you going to go tomorrow?

8 A No.

9 Q I think maybe you should.
10 When you are at church, do you
11 confess for your sins?

12 A I don't go to confession.

13 Q Do you at least think about your
14 sins?

15 MR. McNAMARA: Objection.

16 A No.

17 Q They don't bother you?

18 A No, I don't have sins.

19 Q None at all?

20 A Not that bothers me.

21 Q So you are okay with a certain
22 amount of sin?

23 MR. McNAMARA: Objection.

24 A I don't know what you mean when
25 you refer to "sins."

1 E. Rivera

2 Q Of course, not.

3 These driveways that you did, the
4 side work, who did you do them with?

5 A I don't remember the name. It was
6 a friend that is not here anymore.

7 Q Not here as in he's died?

8 A No, he left the state.

9 Q Where did he go?

10 A I think California.

11 Q California?

12 A Yes.

13 Q What is his name?

14 A I don't remember his name.

15 Q You don't remember anybody's name.

16 A No, I only knew him by his
17 nickname. They used to call him "Negro."

18 Q That's not a nice nickname, is it?

19 A It didn't bother him.

20 Q Why did they call him "Negro"?

21 A I don't know.

22 Q Was he Negro?

23 A No, not so much, like me.

24 Q You are pretty dark now. You look
25 sunburn.

1 E. Rivera

2 A Okay.

3 Q Do you use sunscreen?

4 A In the summer, yes.

5 Q Not in the winter?

6 A No.

7 Q The sun is still out in the
8 winter.

9 A That's true, but I don't use it.

10 Q Don't you know about skin cancer?

11 A I've heard.

12 Q It's a hidden killer, you know?

13 A Yes, it's true.

14 Q You should be careful.

15 A Thank you.

16 Q You have little children.

17 A Thank you.

18 Q And a wife-and-a-half.

19 A That's fine.

20 Q Did you ever cheat on your wife?

21 A No.

22 Q Just once, twice?

23 A No, never.

24 Q You just held up two fingers.

25 A Like this, no (indicating).

1 E. Rivera

2 Q Were you giving me the peace sign?

3 A No, no. Sorry.

4 Q What are you sorry about, lying to
5 me?

6 A For the fingers that I put them
7 up, no.

8 Q It was really three?

9 A No, no.

10 Q It's all right. We're friends.
11 You can tell me the truth.

12 A No, I was never --

13 Q Patrick will tell you to tell the
14 truth.

15 MR. McNAMARA: Tell him to tell
16 you the truth?

17 MR. ZABELL: Yes. You don't know
18 that.

19 Q In fact, look at Patrick's face.
20 He thinks you're lying to me.

21 A I'm not.

22 Q Look at him.

23 MR. McNAMARA: You can continue
24 asking questions, Counselor.

25 Q Tell me the truth. We're all

1 E. Rivera

2 friends here. We won't think anything less of
3 you.

4 A Ask.

5 Q Tell the truth.

6 A I will say the truth.

7 Q So you don't want to talk about it
8 anymore?

9 A Things with my family, no.

10 Q Okay. We will leave you alone on
11 that for now.

12 These side jobs that you did, did
13 you do them Monday through Friday?

14 A No. Sometimes it was a Sunday or
15 a Saturday.

16 Q So you would only do the side jobs
17 on Saturday and Sunday?

18 A They weren't side jobs. It was
19 help that I did for a friend a couple of times.

20 Q You got paid in cash for it,
21 right?

22 A No. They didn't pay me. It was a
23 help.

24 Q So you would work all day in the
25 hot sun for no pay?

1 E. Rivera

2 A No, it wasn't the whole day.

3 Q You would work in the hot sun for
4 no money?

5 A He would help me with favors of a
6 different class and I would help him.

7 Q What favors would he help you
8 with?

9 A He knew about electricity and
10 sometimes I would need help with that at the
11 house, and he would fix that for me.

12 Q Do you own your own house?

13 A No. But at that time, I rented a
14 house.

15 Q How come your landlord didn't fix
16 the electricity?

17 A It was an agreement that we had
18 with the landlord, that anything that broke in
19 the house, I would be the one to fix it.

20 Q What was your landlord's name?

21 A I don't remember his name. But I
22 have the address. I don't know. He lost the
23 house and everything, the man.

24 Q Edwin, didn't you tell me that you
25 have a good memory?

1 E. Rivera

2 A Yeah, but I never saw him, hardly.
3 He didn't live here.

4 Q What happened to your good memory?
5 You don't remember the poor guy's name? This
6 was a guy that rented you his house.

7 A I don't remember the man's name.
8 I don't want to lie and give you a name that
9 isn't.

10 Q You don't want to lie again,
11 right?

12 MR. McNAMARA: Objection.

13 A I don't want to lie.

14 Q Again?

15 MR. McNAMARA: Objection.

16 A I haven't lied.

17 Q Sure, you have.

18 MR. McNAMARA: Objection.

19 A I haven't lied.

20 Q There is not a person in this room
21 that doesn't think that you lied. Ask them.

22 A I am not going to ask that.

23 Q Why? You're afraid of the answer?

24 A No, I like to be respectful of
25 people.

1 E. Rivera

2 Q And asking people if you lied is
3 being disrespectful?

4 A Yes.

5 MR. ZABELL: Do you think it's
6 disrespectful?

7 THE COURT REPORTER: Saul --

8 MR. ZABELL: That's a no.

9 Do you think it's being
10 disrespectful, madam interpreter; si or
11 no?

12 Patrick, do you think it's being
13 disrespectful?

14 MR. MR. McNAMARA: Counsel, I
15 think it's appropriate if you continue
16 your questioning, or if you have no
17 further questions, we can wrap this up.

18 Q Stop lying. You are embarrassing
19 yourself. Are we clear?

20 A Of course, but I'm not lying.

21 Q Sure, you are.

22 So you would do these side jobs on
23 Saturdays and Sundays, correct?

24 MR. McNAMARA: Objection.

25 A It was twice, maybe three times.

1 E. Rivera

2 Q Was it twice or three times?

3 MR. McNAMARA: Objection.

4 A I don't remember.

5 Q Maybe there was a fourth job
6 somewhere?

7 MR. McNAMARA: Objection.

8 A No.

9 Q Never, right?

10 A No.

11 Q You never got paid any cash for
12 these jobs, right?

13 A No.

14 Q You never used any Suffolk Asphalt
15 or Suffolk Paving tools, right?

16 A No, never.

17 Q And you didn't take any time off
18 from Suffolk Paving to do these side jobs,
19 correct?

20 A No.

21 Q Suffolk Paving, you would work
22 Monday through Friday, correct?

23 A Yes.

24 Q Same with Suffolk Asphalt,
25 correct?

1 E. Rivera

2 A Yes.

3 Q And these side jobs only took
4 place on weekends, right?

5 MR. McNAMARA: Objection.

6 A They only happened twice in the
7 time that I worked for Suffolk Paving.

8 Q Once when you worked for Suffolk
9 Asphalt?

10 A I don't remember if it was Suffolk
11 Paving or Suffolk Asphalt.

12 Q So when you were at Suffolk
13 Asphalt, you worked there Monday through Friday,
14 correct?

15 A Yes.

16 Q And at Suffolk Paving, you worked
17 Monday through Friday, correct?

18 A Yes.

19 Q Who did you work with on a regular
20 basis?

21 A I worked with -- do you want
22 names?

23 Q Yes. Use that good memory of
24 yours.

25 A Renato, Carlos, Walter, Noe.

1 E. Rivera

2 Q Lerly Noe Rodriguez. Spelled
3 N-O-E.

4 Are you falling asleep? Do you
5 want to take a nap?

6 A No.

7 Q So you worked with Renato, Carlos,
8 Noe?

9 A Jose, Nelson. I don't remember
10 all of them.

11 Q Of them, who was the work
12 supervisor?

13 A Renato.

14 Q Now, Renato had a couple of names
15 that he went by, right?

16 A I only knew him as Renato.

17 Q Depending on who was looking for
18 him, sometimes he was Maynor, correct?

19 A I don't know. I knew him as
20 Renato.

21 Q Maynor Fajardo?

22 A I only know him as Renato.

23 Q Renato Guerra?

24 A I only know Renato.

25 Q But he was your supervisor?

1 E. Rivera

2 A Yes.

3 Q He told you what to do, correct?

4 A Yes.

5 Q Did he ever pay you?

6 A No.

7 Q He was in charge of your work?

8 A Yes.

9 Q Throughout your entire employment?

10 A Yes.

11 Q Are you sure?

12 A Yes. He was my boss at work.

13 Q Okay. Do you know if there was a
14 period of time where he disappeared from work,
15 si?

16 A I don't understand the question.
17 Can you say it again?

18 Q Do you know if there was a period
19 of time where he disappeared from work; yes,
20 yes?

21 A No. I know that he went for a
22 time, but I don't know why he went.

23 Q He went to go see his mistress in
24 Columbia, right?

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A I don't know that.

3 Q I do.

4 A Okay.

5 Q He told me.

6 A Okay, that's fine.

7 Q He was very proud of his Columbian
8 mistress.

9 A Okay.

10 Q Did you ever meet her?

11 A No.

12 Q Would you like to?

13 A For what?

14 Q I don't know.

15 Do you know when he left to go see
16 his Columbian mistress?

17 MR. McNAMARA: Objection.

18 A No.

19 Q You have no idea?

20 A No.

21 Q Who was your supervisor when he
22 left?

23 A Sometimes it was Mendez, Pracelis
24 Mendez.

25 Q Who was nicer; Mendez or Renato?

1 E. Rivera

2 A Both were the same.

3 Q The same nice or the same not so
4 nice?

5 A In work, they were both the same
6 nice.

7 Q Now, when you worked for Suffolk
8 Asphalt, who was the boss?

9 A Renato also.

10 Q Renato was the boss?

11 A At work, yes.

12 Q Who was the owner of the company?

13 A As far as I know, it was Chris,
14 the son, but the one who was in charge was
15 Louis.

16 Q That was at Suffolk Asphalt?

17 A And Suffolk Paving, also.

18 Q Did you get to speak to Louis
19 Vecchia on a daily basis when you worked at
20 Suffolk Asphalt or Suffolk Paving?

21 A No.

22 Q You never spoke to him?

23 A Yes, but I couldn't talk to him
24 every day, because sometimes he wasn't there.

25 MR. ZABELL: Excuse me one moment.

1 E. Rivera

2 (At this time a break was taken
3 from 11:15 a.m. until 11:18 a.m.)

4 (Whereupon, Mr. Louis Vecchia
5 entered the conference room.)

6 Q So when you were at work and you
7 saw Louis Vecchia, you could speak to him,
8 correct?

9 A Yes.

10 Q And he always treated you fairly,
11 correct?

12 A Yes.

13 Q Always nice to you and respectful,
14 correct?

15 A Yes.

16 Q And if you had a problem, he would
17 help you with your problem, correct?

18 A Yes.

19 Q Did he try to help you with the
20 \$4,000 that you owe LR Credit?

21 A I never saw that. This is the
22 first time I see it.

23 Q You did see it. I showed it to
24 you just before.

25 A Yeah, today is the first time I

1 E. Rivera

2 saw it.

3 Q So you never asked him for help on
4 that?

5 MR. McNAMARA: Objection.

6 A No, no. I never saw that.

7 Q Do you know why you owe them
8 \$4,000?

9 A No.

10 Q No idea?

11 A No.

12 Q Is there a bill you haven't paid?

13 A No, maybe my wife at that time,
14 but until just today, I found out about that.

15 Q Your wife at this time?

16 A I don't know.

17 Q You only have one wife, right?

18 A Yes.

19 Q So your wife at that time is the
20 same as your wife at this time, correct?

21 MR. McNAMARA: Objection.

22 A Yes, yes.

23 Q You just have a different
24 girlfriend now, correct?

25 A Yes.

1 E. Rivera

2 Q Same wife that you still have,
3 just a different girlfriend?

4 MR. McNAMARA: Objection.

5 Q Right?

6 A Yes, yes.

7 Q You are okay with that, right?

8 A Yes.

9 Q At any time you had a problem at
10 work, Louis Vecchia was always there to answer
11 your problem, correct?

12 MR. McNAMARA: Objection.

13 Q Correct; yes or no?

14 A Not always. Tommy was always
15 there to help.

16 Q You could talk to Tommy, right?

17 A Yes.

18 Q Was Tommy honest with you?

19 A Yes.

20 Q And he was fair to you, right?

21 A Yes.

22 Q And he was more fair than Renato,
23 correct?

24 A It was the same. They treated me
25 well.

1 E. Rivera

2 Q Now, did there come a time where
3 you borrowed money from Suffolk Asphalt or
4 Suffolk Paving?

5 A I don't remember.

6 Q You don't remember?

7 A I don't remember if I one time
8 asked Mr. Louie to borrow money or not.

9 Q If you did ask him, did he lend it
10 to you?

11 A Yes, I think so. He was a very
12 good person.

13 Q He was a good person or he is a
14 good person?

15 A When I worked with him, he was a
16 good person.

17 Q So up until November of 2009, he
18 was a good person?

19 A Until when I worked with him, he
20 was a good person.

21 Q Could he still be a good person?

22 A I think so.

23 Q Do you have any reason to believe
24 that he is not a good person?

25 A I don't have any dealings with him

1 E. Rivera

2 now.

3 Q So you have no way to think that
4 he is a bad person?

5 A No.

6 Q Since you stopped working, has he
7 tried to hurt you in any way?

8 A No, no.

9 Q Has he said not nice things about
10 you?

11 A No.

12 Q Has he said not nice things about
13 your wife?

14 A No, he's never said anything.

15 Q Has he said not nice things about
16 your girlfriend?

17 A He's never said anything.

18 Q Has he said not nice things about
19 your children?

20 A He's never said anything.

21 Q Then, why are you saying not nice
22 things about him?

23 A He treated me well.

24 Q But you know you are saying not
25 nice things about him? Do you know that?

1 E. Rivera

2 A I am just saying that he was a
3 good person.

4 Q You know that you are saying not
5 nice things about his wife? Do you know that?

6 A Yes, yes, I know.

7 Q Why are you saying not nice things
8 about his wife?

9 A I am not talking about his wife.

10 Q Sure, you are.

11 A No.

12 Q Do you know you are saying not
13 nice things about his son?

14 A I haven't said anything bad about
15 his son.

16 Q Did you read the complaint that
17 you filed in this case?

18 A Yes.

19 Q What does that say?

20 A It said when we finished the year
21 2009, when we finished in December, Mr. Louie
22 spoke with me and he said that we were not going
23 to -- we were not going to find work at another
24 company. He was going to send a letter to say
25 because it was unjust; it was unjust, what we

1 E. Rivera

2 were doing to him.

3 Q Did you find work somewhere else
4 after you left him?

5 A I found work quickly.

6 Q Where are you working now?

7 A Intercounty.

8 Q So he said you are not going to
9 find work anywhere else, but you did find work
10 somewhere else, correct?

11 A He didn't say me. He said all of
12 us.

13 Q Did he say this to you directly?

14 A Yes, directly.

15 Q What time of the day was it?

16 A In the morning.

17 Q What day was it?

18 A I don't remember. It was in
19 December.

20 Q The beginning of December, the end
21 of December?

22 A Between the 15th and the 25th of
23 December.

24 Q Was that a Monday?

25 A I don't remember.

1 E. Rivera

2 Q Was it a Tuesday?

3 MR. McNAMARA: Objection.

4 A I don't remember.

5 Q Was it a Thursday?

6 MR. McNAMARA: Objection.

7 A I don't remember.

8 Q Was it a Friday?

9 MR. McNAMARA: Objection.

10 A I don't remember.

11 Q It wasn't a Saturday or Sunday,
12 because you didn't work weekends, correct?

13 A I don't remember. I don't
14 remember.

15 Q You don't remember if you worked
16 weekends?

17 MR. McNAMARA: Objection.

18 A No.

19 Q You remember before you testified
20 that you didn't work weekends?

21 A No.

22 Q You didn't testify to that before?

23 A Yes, I did not work on the
24 weekends.

25 Q Okay. Do you remember testifying

1 E. Rivera

2 that you did not work on the weekends before?

3 MR. McNAMARA: Objection.

4 A No, I don't remember that.

5 Q Okay. Let's take a step back. I
6 want you to understand something, because I
7 don't think you know what it means to lie.

8 MR. McNAMARA: Objection.

9 Q If you give one answer and later
10 give an answer that contradicts that answer, I
11 am going to call you a liar.

12 Do you understand that?

13 MR. McNAMARA: Objection.

14 A Okay.

15 Q Now, you told me that you have a
16 fifteen-year-old daughter, correct?

17 A Don't mess with my daughter,
18 please.

19 Q I am not messing with your
20 daughter. But if your daughter tells you that
21 after school, she is going to her friend's house
22 to study, you expect her to be at her friend's
23 house to study, correct?

24 A Please don't refer to my family.

25 Q But if you find out that she was

1 E. Rivera

2 not at her friend's house studying, you are
3 going to yell at her and tell her that she lied
4 to you, correct?

5 A I am not going to talk anything
6 about my daughter, please.

7 Q Do you understand the concept of
8 lying? Whether we use your daughter as an
9 example or just your friend down the block as an
10 example.

11 A Respect my daughter.

12 Q Do you think that example I gave
13 you was not respecting your daughter?

14 A It's being disrespectful because
15 you don't know my daughter and you don't have to
16 mention her.

17 Q It's not being disrespectful. I
18 understand why you want to be petulant and not
19 answer the question. We are going to take it a
20 step further.

21 Do you see that man next to you?
22 Do you remember his name yet?

23 A Yes.

24 Q What is his name?

25 A Patrick.

1 E. Rivera

2 Q Okay. If Patrick said to you, I
3 will be representing you at this deposition, but
4 he did not represent you at this deposition,
5 would that make him a liar?

6 MR. McNAMARA: Objection.

7 A Yes.

8 Q If I told you to tell me what
9 shape this room is and you told me it was a
10 circle, would you be a liar?

11 MR. McNAMARA: Objection.

12 A Yes.

13 Q So you do know what it means to
14 tell the truth and to lie, correct?

15 MR. McNAMARA: Objection.

16 A Sometimes you understand the
17 questions correctly.

18 Q I always understand the questions,
19 because I ask the questions. If you provide an
20 answer to a question I ask you, it will be
21 assumed that you understood the question. I
22 explained that to you.

23 Don't you remember that?

24 A Yes.

25 Q So don't try to blame the fact

1 E. Rivera

2 that you're lying to me on your inability to
3 understand the questions. It is clear to
4 everyone in this room that you understand the
5 questions both in English and then again when
6 they are interpreted for you into Spanish.

7 MR. McNAMARA: Objection.

8 Q Are we clear?

9 A Yes.

10 Q Do you want to apologize now for
11 lying?

12 MR. McNAMARA: Objection.

13 A I haven't lied. There has been a
14 misinterpretation of the answers.

15 Q Who has misinterpreted your
16 answers?

17 A You.

18 Q So you know what madam interpreter
19 is interpreting for me, correct?

20 A Yes, I understand what she is
21 saying.

22 Q You hear it in English and
23 Spanish, correct?

24 A Yes.

25 Q And you understand it both in

1 E. Rivera

2 English and Spanish, correct?

3 A In Spanish.

4 Q Right. Please stop picking your
5 rash. You can do that at home.

6 You understand when I ask you
7 questions in English, correct?

8 A A few.

9 Q Okay. Are you saying that madam
10 interpreter is doing a bad job?

11 A No.

12 Q Me neither. So don't blame your
13 inability to tell the truth on the interpreter.

14 Do you understand that?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q You should apologize to her.

18 MR. McNAMARA: Objection.

19 Q Go ahead.

20 A I haven't disrespected you.

21 Q I'm telling you that you have.

22 When did you start working for
23 Intercounty? And don't lie to me.

24 A 2010.

25 Q When in 2010?

1 E. Rivera

2 A April.

3 Q April what, 2010?

4 A I don't remember what day.

5 Q Do you remember, roughly, what
6 day?

7 A No, I don't remember.

8 Q Why not?

9 A I don't remember.

10 Q You said that you had a good
11 memory before.

12 MR. McNAMARA: Objection.

13 A But I don't remember the date.

14 Q Do you know what day of the week
15 it was?

16 A No.

17 Q How did you get your job at
18 Intercounty?

19 A Through the union.

20 Q How much are you getting paid at
21 Intercounty?

22 A \$36.29 an hour.

23 Q For all of your work?

24 A No. When we work in the City,
25 it's a different pay.

1 E. Rivera

2 Q What is the pay in the City?

3 A \$44 and -- I don't remember the
4 change.

5 Q So you either get paid \$36 an hour
6 or \$44 an hour, correct?

7 A Yes.

8 Q And not any more and not any less?

9 A No. If you work at night, it's
10 also different.

11 Q How different?

12 A It pays more at night.

13 Q How much more?

14 A \$57.

15 Q So you either get paid \$36 an
16 hour, \$44 an hour, or \$57 an hour, correct?

17 A Yes.

18 Q Never any more?

19 A When it's overtime, it's more.

20 Q How much more?

21 A \$70, \$68, yeah, that's it.

22 Q Did you ever discuss this case
23 with anybody at Intercounty?

24 A No.

25 Q Did you ever give anybody at

1 E. Rivera

2 Intercounty your attorney's information?

3 A No.

4 Q Are you sure?

5 A Yes.

6 Q Do you want to re-answer that
7 question honestly now?

8 MR. McNAMARA: Objection.

9 A Yes, I told you I haven't spoken
10 to anybody about this.

11 Q What is your position at
12 Intercounty?

13 A I work with the asphalt group.

14 Q Are you a shoveler?

15 A No. Raker.

16 Q At Intercounty, do they ever pay
17 you in cash?

18 A No.

19 Q Did you ever receive cash payments
20 when you worked for Suffolk Asphalt?

21 MR. McNAMARA: Objection.

22 A No.

23 Q Did you ever receive cash payments
24 when you worked at Suffolk Paving?

25 A Yes. A couple times.

1 E. Rivera

2 Q How much did you receive?

3 A I don't remember.

4 Q Who paid you the cash?

5 A Mr. Louie.

6 Q Mr. Louie, the man to my left?

7 A Yes.

8 Q The man who paid you fairly?

9 A Yes, he would pay me sometimes
10 cash, a few times.

11 Q But Mr. Vecchia, the man who
12 treated you fairly, correct?

13 MR. McNAMARA: Objection.

14 A Yes, Mr. Louie Vecchia.

15 Q Mr. Louie Vecchia, the man who
16 treated you honestly and with respect, correct?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q The man who made sure you got a
20 paycheck every week, correct?

21 A Yes.

22 Q The man who made sure that every
23 week you worked and you got a paycheck, that
24 paycheck had a pay stub attached to it, correct?

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A Yes.

3 Q The man who lent you money when
4 you needed it, correct?

5 A I don't remember if he lent me --
6 borrow money.

7 Q You just testified that he lent
8 you money when you needed it.

9 MR. McNAMARA: Objection.

10 A I said that I didn't remember if
11 he had ever lent me money. I said that I knew
12 if I asked him for it, he would let me borrow
13 it.

14 Q The man who put you in the union,
15 correct?

16 A Yes.

17 Q The man who paid for your
18 membership fee in the union, correct?

19 A Yes, correct.

20 Q Now, if you did borrow money from
21 Mr. Vecchia, did you ever pay him back?

22 A Yes.

23 Q How did you pay him back?

24 A I don't remember if he let me
25 borrow money. But if he did let me borrow

1 E. Rivera

2 money, I know that I paid him back.

3 Q You wouldn't remember if you
4 borrowed money from somebody?

5 A I don't remember through Mr. Louie
6 Vecchia.

7 Q Now, when you said at Suffolk
8 Paving you received some cash, were those cash
9 payments in addition to your checks?

10 A Yes, sometimes.

11 Q And do you remember how much that
12 cash was for?

13 A No, I don't remember how much it
14 was.

15 Q Did he just give you cash in your
16 hand, or did he put it in an envelope or a bag,
17 a briefcase, maybe?

18 A No, sometimes in an envelope.

19 Q Was it always in an envelope?

20 A Yes, always with the check.

21 Q So you always got cash payments
22 with your check?

23 MR. McNAMARA: Objection.

24 A Sometimes.

25 Q Do you know what those cash

1 E. Rivera

2 payments were for?

3 A Sometimes for overtime, they were.

4 Q Oh, did you ever get paid overtime
5 on your check?

6 A Yes.

7 Q So sometimes you got paid overtime
8 on your check and sometimes you got paid
9 overtime in cash, correct?

10 A Yes.

11 Q They never gave you overtime on
12 your check or cash payments if you never worked
13 overtime, correct?

14 MR. McNAMARA: Objection.

15 A Yes.

16 Q So any time it shows that you got
17 overtime on your check, you actually worked that
18 overtime, correct?

19 A Yes, it did show it, but it wasn't
20 all of it.

21 Q But you would never get paid
22 overtime on your check, unless you worked that
23 overtime, correct?

24 A Yes, sometimes he paid me cash.

25 Q Sometimes he paid your friends in

1 E. Rivera

2 cash, right?

3 A I don't know if he paid my
4 friends.

5 Q Sure, you do. You would see
6 people walk out with the same envelope that you
7 got, right?

8 A It was the same envelope that the
9 check was in, all the envelopes were the same.

10 Q So when he gave you the envelope,
11 he had other envelopes in his hands, right?

12 A Yes.

13 Q Did you ever take that envelope
14 and go to the union and tell them how you were
15 paid?

16 A No.

17 Q How often would the union come on
18 to the job site to talk to you guys?

19 A No, never.

20 Q Never?

21 A Never.

22 Q If you had to make a complaint to
23 the union, how would you make a complaint?

24 MR. McNAMARA: Objection.

25 A We had to go there and call.

1 E. Rivera

2 Q Did you ever go there or call?

3 A No.

4 Q But you knew where to call, right?

5 A Yes.

6 Q You remember when I asked you
7 earlier today if you needed to make a complaint,
8 you knew how to make that complaint?

9 A Yes.

10 Q But you never did make a
11 complaint, because you never had a complaint to
12 make?

13 MR. McNAMARA: Objection.

14 A I had complaints, but I never made
15 them.

16 Q Why?

17 A Because I didn't want to make
18 problems or anything. I didn't want to lose my
19 job.

20 Q Why do you want to make problems
21 now?

22 A Because they owe me so much, it's
23 unjust, so many hours, so many years.

24 Q How much do they owe you?

25 A I don't know. My lawyer knows

1 E. Rivera

2 that.

3 Q No, he doesn't. Go ahead, ask
4 him.

5 A The other lawyer does.

6 Q You've got a lawyer right here.

7 A Okay.

8 MR. McNAMARA: Objection.

9 A The other one knows.

10 Q Did you tell your lawyer how much
11 you think you're owed?

12 A He knows how much it is.

13 Q Do you have any idea how much
14 money you're owed?

15 A No, I do know, but I am not going
16 to say it.

17 Q You don't have a choice. If you
18 do know, you have to say it.

19 A I don't know it exactly.

20 Q Well, tell me, roughly.

21 A No, I don't want to lie.

22 Q Do you have any idea what you're
23 owed?

24 MR. McNAMARA: Objection.

25 A No.

1 E. Rivera

2 Q Do you have any idea how to figure
3 out what you're owed?

4 A No.

5 Q If I gave you any documents, would
6 that help you figure out what you think you're
7 owed?

8 A You can talk to my attorney about
9 that.

10 Q I don't like your attorney.

11 A Okay.

12 Q I have no interest in listening to
13 what your attorney cobbles together. I have an
14 obligation to ask you to figure out what you're
15 owed.

16 MR. McNAMARA: Objection.

17 Q Are you capable of figuring out
18 what you're owed?

19 MR. McNAMARA: Objection.

20 A Yes, I can look, but I don't have
21 that with me.

22 Q What do you need to look at?

23 A The amount that you need to know.

24 Q What do you need to look at?

25 A You want me to give you a price?

1 E. Rivera

2 Q I want you to tell me what
3 documents you need to look at to figure out what
4 you believe you're owed.

5 A My lawyer knows that. He is the
6 one in charge of that.

7 Q No. Listen to me. Stop trying to
8 be smart. You're not. Just answer my
9 questions.

10 MR. McNAMARA: Objection.

11 Q Are you capable of figuring out
12 yourself what you are owed by Suffolk Asphalt or
13 Suffolk Paving?

14 A Okay. I repeat, my lawyer knows
15 that. I have given him all the papers.

16 Q Listen. Just answer my question.
17 Are you capable of figuring out
18 what you allege to be owed by Suffolk Asphalt
19 and Suffolk Paving; yes or no?

20 A No.

21 Q If I gave you a calculator, could
22 you figure it out?

23 MR. McNAMARA: Objection.

24 A No.

25 Q If I gave you any papers at all,

1 E. Rivera

2 could you figure out what you allege to be owed?

3 MR. McNAMARA: Objection.

4 A No.

5 Q Why is that?

6 A Because I gave it all to the
7 attorney, all the pay stubs and everything. He
8 has all that.

9 Q You gave all your pay stubs to
10 your attorney?

11 A Yes.

12 Q Those are all the pay stubs that
13 show us the hours that you worked, correct?

14 MR. McNAMARA: Objection.

15 A Yes.

16 Q That is the only way to figure it
17 out, by looking at those pay stubs, correct?

18 MR. McNAMARA: Objection.

19 A I don't know if that is how the
20 attorney is using it. I don't know.

21 Q Well, what do you know?

22 A He knows.

23 Q Who?

24 A The attorney.

25 Q Which one?

1 E. Rivera

2 A Ian.

3 Q When was the last time you spoke
4 to Ian?

5 MR. McNAMARA: Objection.

6 A About three weeks.

7 Q Why isn't he in here?

8 A I don't know.

9 Q I know. Do you want me to tell
10 you why?

11 A No.

12 Q Okay. Did you ask Patrick why Ian
13 is not here?

14 MR. McNAMARA: Objection.

15 A No.

16 Q Now, Patrick is a very nice guy.
17 But do you know why Ian didn't show up?

18 MR. McNAMARA: Objection.

19 A No.

20 Q Do you care that Ian is not here?

21 A No, Patrick is here.

22 Q He is doing a bang-up job, right?

23 A Yes.

24 Q Do you think Patrick knows what
25 you believe you're owed?

1 E. Rivera

2 A I don't know if he knows.

3 Q Can I ask Patrick what you are
4 owed?

5 A I don't know.

6 MR. ZABELL: Patrick, what do you
7 think this guy is owed?

8 MR. McNAMARA: Counselor, you can
9 ask the witness questions.

10 MR. ZABELL: Patrick, do you have
11 any idea what this guy is owed?

12 MR. McNAMARA: Counselor, your job
13 here is to ask the witness questions.

14 MR. ZABELL: You have no idea, do
15 you?

16 MR. McNAMARA: Counsel, I am here
17 to represent the witness.

18 MR. ZABELL: Patrick, are you
19 capable of giving me a number?

20 MR. McNAMARA: Counsel, move on.

21 MR. ZABELL: I will take that as a
22 no.

23 MR. McNAMARA: Counsel, you can
24 continue to ask the witness questions.

25 MR. ZABELL: Oh, Dios mío.

1 E. Rivera

2 (At this time a break was taken
3 from 11:48 a.m. until 12:22 p.m.)

4 Q Do you remember before I was
5 asking you if you had read the complaint in this
6 case?

7 A Yes, I remember.

8 Q Did you read it in English or
9 Spanish?

10 A In Spanish.

11 Q So you know everything that the
12 complaint says, right?

13 A I haven't read the whole thing. I
14 read a couple of things.

15 Q Do you read in Spanish?

16 A Yes.

17 Q What grade did you go to?

18 A To seventh grade.

19 Q You can read in Spanish?

20 A Yes.

21 MR. McNAMARA: Objection.

22 Q Were you given a copy of the
23 complaint to read?

24 A Yes.

25 Q You have a copy of it that you can

1 E. Rivera

2 read, right?

3 A Yes, yes.

4 Q Do you know who you're suing in
5 that complaint?

6 A Yes, Suffolk Paving and Suffolk
7 Asphalt.

8 Q Do you know if you are suing
9 anybody else, other than Suffolk Paving and
10 Suffolk Asphalt?

11 A No.

12 Q Did you know that you are suing
13 Louis Vecchia directly?

14 A Yes.

15 Q So you know that you are suing
16 more than Suffolk Paving and Suffolk Asphalt,
17 right?

18 A It's the same owner. It's the
19 same everything.

20 Q Who told you that?

21 A I know that. I worked there for
22 many years.

23 Q So if you are suing Suffolk Paving
24 and Suffolk Asphalt, why are you suing Louis
25 Vecchia?

1 E. Rivera

2 A Because he is the owner.

3 Q But he is the one who treated you
4 fairly, right?

5 A Yes, but what you work, you have
6 to be paid for.

7 Q You testified that you got a
8 paycheck every week, right?

9 A Correct, but it wasn't correct.

10 Q And every week, you got a pay stub
11 with your paycheck, correct?

12 A Correct, but incorrect.

13 Q And in addition to your paycheck,
14 sometimes you would get cash, right?

15 A Sometimes.

16 Q Then, sometimes you would get paid
17 overtime, correct?

18 A Correct.

19 Q You never got overtime unless you
20 worked overtime, correct?

21 A Correct.

22 Q Do you know who else you are
23 suing, other than Suffolk Paving, Suffolk
24 Asphalt, and Louis Vecchia?

25 A No.

1 E. Rivera

2 Q You know you're suing Louis
3 Vecchia's wife?

4 A No.

5 Q Do you want to ask your attorney
6 if you are?

7 MR. McNAMARA: Objection.

8 A No.

9 Q What did Louis Vecchia's wife ever
10 do to you?

11 A Nothing.

12 Q So is there any reason why you
13 would be suing her?

14 A My lawyer must know what he's
15 doing.

16 Q Do you have any reason to believe
17 that Louis Vecchia's wife treated you unfairly
18 in any way?

19 A No, she never treated me badly.

20 Q As you sit here today, do you have
21 any reason to believe that you have a basis to
22 sue her?

23 A No.

24 Q Now, Louis Vecchia's boy, his son,
25 do you know who that is?

1 E. Rivera

2 A Yes, Chris.

3 Q Do you know you are suing Chris
4 Vecchia?

5 A Yes, I know.

6 Q Oh, you know. I asked you before
7 who you were suing and you just said Suffolk
8 Paving, Suffolk Asphalt. You never mentioned
9 Chris Vecchia.

10 MR. McNAMARA: Objection.

11 A Okay.

12 Q But now you know you are suing
13 Chris Vecchia too, right?

14 A Yes. Because he is also owner.

15 Q How do you know he is an owner?

16 A He told me.

17 Q When did he tell you?

18 A When the company started Suffolk
19 Asphalt.

20 Q How did he tell you?

21 A That he was the owner, but only by
22 word. Because who made the decisions was the
23 father.

24 Q Chris Vecchia said that to you?

25 A Yes.

1 E. Rivera

2 Q Do you remember what month he said
3 that to you?

4 A No.

5 (Whereupon, Mr. Louis Vecchia left
6 the conference room.)

7 Q Is your name Irwin?

8 A Edwin, but everyone would call me
9 Irwin, like Mr. Louie said.

10 Q All your coworkers?

11 A Yeah.

12 Q The Hispanic coworkers and the
13 non-Hispanic coworkers?

14 A Yeah.

15 Q Why did they call you Irwin?

16 A Maybe it was difficult to say
17 Edwin.

18 Q Irwin is an old Jewish man's name.

19 A Well, I didn't know that.

20 Q It's all right. So is Saul.
21 What do you prefer?

22 A What are you referring to?

23 Q Your name.

24 A It doesn't matter. You can call
25 me Irwin, Edwin. It doesn't matter.

1 E. Rivera

2 Q Chris Vecchia, did he treat you
3 fairly?

4 A Yes.

5 Q Always respectful?

6 A Yes.

7 Q Did you ever borrow money from
8 him?

9 A No.

10 Q If you needed to borrow money from
11 him, would he lend you money?

12 A In the time that I worked with
13 him, he never had money.

14 Q Why? What does that mean?

15 A He worked just like us.

16 Q Hard worker?

17 A Yes.

18 Q So he owned the company, but he
19 was a hard worker there too?

20 A Yes.

21 Q He worked the same hours you guys
22 worked?

23 A Yes.

24 Q Always worked the same hours you
25 worked, right?

1 E. Rivera

2 A Yes. When he worked with us, he
3 did.

4 Q He worked with you up until
5 December of 2009, right?

6 A Yes.

7 Q So whatever his hours that he got
8 paid for should be the same that you worked and
9 you got paid for, right?

10 A I don't know how they paid him. I
11 don't know any of that.

12 Q Right. But he worked the same
13 hours you worked?

14 A Yes.

15 Q So if he got paid eight hours for
16 a day, that would mean that you should get paid
17 eight hours for the day, right?

18 A I can't make an opinion on him.

19 Q But if you saw him working with
20 you and he says that he worked eight hours, you
21 worked the same hours as him, so you would have
22 worked eight hours?

23 MR. McNAMARA: Objection.

24 Q Right?

25 A Sometimes he would complain about

1 E. Rivera

2 his overtime to his father also.

3 Q So sometimes Chris Vecchia never
4 got paid overtime too?

5 A Also, sometimes I heard that he
6 was annoyed because of his overtime. He would
7 say that he can't believe being the president
8 that he didn't get paid right.

9 Q Who did he say that to?

10 A To all the coworkers, all of us
11 that were there.

12 Q So he would complain about not
13 getting paid overtime too?

14 A When he would look at the check,
15 when we look at the check, he would also say,
16 yeah, mine is the same.

17 Q He said that to you?

18 A Yeah, to me and to everyone who
19 was there.

20 Q In English or Spanish?

21 A English.

22 Q Because he didn't speak Spanish,
23 right?

24 A No, he doesn't speak Spanish.

25 Q Now, let's talk about December of

1 E. Rivera

2 2009.

3 How did your employment end?

4 A It ended up bad, because Louie
5 found out that we had sued him.

6 Q When did Louie find out that you
7 had sued him?

8 A In the month of December.

9 Q How do you know Louie found out?

10 A He told me.

11 Q What did he say to you?

12 A Asked me why we had sued him.

13 Q What did you say?

14 A Because he wasn't paying overtime
15 hours correctly.

16 Q What did he say back to you?

17 A That we were losing time, because
18 he said it was a joke, because his attorney said
19 that it was a joke.

20 Q That is what Louie said to you?

21 A Yeah.

22 Q Is that all that he said to you?

23 A Yeah, that is all he said to me
24 that day.

25 Q Did he fire you?

1 E. Rivera

2 A No.

3 Q Did you ever talk about it again
4 after that day?

5 A Regarding the suing, no.

6 Q You never talked about your
7 employment again after that?

8 A Yes, I spoke to him afterwards
9 about my job. He said that he had called me
10 about three times. But I never saw the phone.
11 I never saw calls from him. He told me that he
12 had already made his schedule, and he didn't
13 know if he was going to give me the work or not.

14 Q When did those discussions take
15 place?

16 A That was like the last week in
17 March.

18 Q Oh, so --

19 A 2010.

20 Q So there were no discussions
21 between December of 2009 and March of 2010?

22 A Only in December when he told me
23 that we would not find work in any other
24 company.

25 Q But that wasn't true. You did

1 E. Rivera

2 find work at another company.

3 MR. McNAMARA: Objection.

4 A He said it to me because he was
5 upset.

6 Q But you did find work in another
7 company?

8 A Yeah, I didn't believe it. I
9 found another job and I'm happy with my job.

10 Q You found another job right away,
11 right?

12 A Yes.

13 Q You don't work from December to
14 March, correct?

15 A Correct.

16 Q Okay. So you didn't lose anything
17 in pay, correct?

18 A No.

19 Q Now, did you ever have to hire an
20 attorney to represent you?

21 A No -- besides from the attorney
22 that I have now?

23 Q You hired Ian, right?

24 A Yes. We spoke with him.

25 Q Did you ever pay Ian anything?

1 E. Rivera

2 A No.

3 Q Do you know if any of your
4 coworkers had to pay Ian anything?

5 A I don't know anything about that.

6 Q But you never paid Ian anything?

7 MR. McNAMARA: Objection.

8 A Never.

9 Q Did he ask you for any money?

10 A No.

11 Q Did Ian ever ask you to provide
12 him with information?

13 A Ian?

14 Q Si.

15 A Yes, I gave him all the
16 information from the company; where I worked,
17 how many years.

18 Q Did you ever provide him with any
19 documents?

20 A Yes, I gave him documents.

21 Q What do those documents say?

22 A I gave him pay stubs. That's all
23 he needed.

24 Q Now, did you receive unemployment
25 benefits beginning in 2009?

1 E. Rivera

2 A Yes, every year, I get
3 unemployment, except 2009 when Louie cut it.

4 Q Why did you not get benefits in
5 2009?

6 A No, I'm sorry, in 2010, Louie cut
7 my benefits. In 2009, I received them.

8 Q Why didn't you get benefits in
9 2010?

10 A Because Louie said that I didn't
11 want to return to work.

12 Q He said that because he called you
13 three times, right?

14 A Yes. I told him that I never
15 received his call. And when I returned his
16 call, he said -- he didn't tell me that I was
17 fired. He told me that he didn't know what he
18 was going to do with me.

19 Q There was a hearing at
20 unemployment, correct?

21 A Yes, yes.

22 Q And you lost that hearing,
23 correct?

24 A Yes, I imagine that, because I
25 never received any notification.

1 E. Rivera

2 Q You actually had to pay them back
3 money, right?

4 A Yes.

5 Q Now, Nora is your wife?

6 A Yes.

7 Q And in 2007, where did your wife
8 work?

9 A My wife hardly ever worked.

10 Q So you are saying in 2007, she
11 didn't work?

12 A I don't know. I think she hardly
13 ever worked. Sometimes she worked two or three
14 weeks.

15 Q In 2007, where did Nora live?

16 A I don't remember if she was here
17 or if she had moved to North Carolina. She
18 lives in North Carolina.

19 Q So she moved away from you in
20 2007, right?

21 A I don't remember what year it was
22 that she moved.

23 Q Now, during the season, you didn't
24 work every day of the week, did you?

25 A The season of what?

1 E. Rivera

2 Q The paving season.

3 A No.

4 Q And when you worked overtime, you
5 got paid overtime on your check, correct?

6 MR. McNAMARA: Objection.

7 A They paid overtime, but it wasn't
8 correct.

9 Q So how many hours do you remember
10 getting paid overtime on your check?

11 A When I worked fifteen hours,
12 sometimes they put four or five hours.

13 Q Did you ever get more than four or
14 five hours on your check?

15 A I imagine a few times.

16 Q Sometimes you got ten hours?

17 A I don't remember.

18 Q Sometimes you got eight hours,
19 correct?

20 A No, I don't remember.

21 Q And on your paychecks, it would
22 show that money was taken out of your pay to
23 give to the union, correct?

24 A I really don't know that. I know
25 that I never paid much attention to what they

1 E. Rivera

2 were taking out.

3 Q You just assumed that if they were
4 taking money out of your check, it was
5 appropriate, correct?

6 MR. McNAMARA: Objection.

7 A Yes.

8 Q You had no reason to doubt that
9 you were getting paid correctly on your checks,
10 correct?

11 A Yes.

12 Q And, in fact, your checks were
13 appropriate, correct?

14 A The checks weren't correct.

15 Q How do you know if you never
16 looked at them?

17 MR. McNAMARA: Objection.

18 A I always wrote down the hours that
19 I worked, and I gave them to Mr. Tommy, and they
20 never paid what it was.

21 Q How do you know if you never
22 looked at your checks and you never paid
23 attention to your checks?

24 MR. McNAMARA: Objection.

25 A I never paid attention to what it

1 E. Rivera

2 was, what they were taking out for the union.

3 Q If you never paid attention to it,
4 you don't know what the checks really said?

5 MR. McNAMARA: Objection.

6 A I know what the checks said.

7 Q How do you know if you didn't pay
8 attention?

9 MR. McNAMARA: Objection.

10 A I know that he didn't pay me the
11 hours that I worked, because I would write them
12 down and give them to Mr. Tommy every Friday.

13 Q Now, are you familiar with the
14 decision from the Administrative Law Judge in
15 your unemployment case?

16 A I never received that. I am going
17 to go look for it. I never received it.

18 Q Wait, wait. You paid back over
19 \$430 to the Department of Labor, did you not?

20 A Yes.

21 Q And you paid that back because you
22 were found to have made a willful
23 misrepresentation, correct?

24 A I don't know what they decided. I
25 haven't seen the papers and they never returned

1 E. Rivera

2 the money.

3 Q Do you know what a "willful
4 misrepresentation" is?

5 A I was doing it correctly.

6 Q Do you know what a "willful
7 misrepresentation" is?

8 A I didn't have any proof.

9 Q Do you know what a "willful
10 misrepresentation" is?

11 A Yes, I know it's bad.

12 Q It's a lie, right?

13 A Yes.

14 Q And you were found by an
15 Administrative Law Judge to have lied, correct?

16 MR. McNAMARA: Objection.

17 A Yes. Because I didn't have to pay
18 a lawyer. I didn't have the money to pay a
19 lawyer. I didn't have the money. And I didn't
20 have the proof.

21 Q So a judge found that you lied,
22 correct?

23 MR. McNAMARA: Objection.

24 Q Yes or no?

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A I did not receive the papers. I
3 don't know.

4 Q Do you want to see? I'll go make
5 a copy so you can see.

6 A Okay, thank you.

7 Q You're welcome.

8 (At this time a break was taken
9 from 12:48 p.m. until 12:50 p.m.)

10 (A three-page double-sided
11 document was marked as Defendants'
12 Exhibit 3 for identification, as of this
13 date.)

14 Q I am going to show you a document
15 that is marked as Defendants' Exhibit 3 with
16 today's date.

17 Can you take a look at that
18 document? (Handing.)

19 A (Reviewing document.)

20 Q I see that you have taken a look
21 at that document.

22 Have you ever seen that before?

23 A No, I hadn't seen it before. I
24 was waiting for it. I never received it.

25 Q Well, now you have seen it.

1 E. Rivera

2 A Okay.

3 Q You receive mail at P.O. Box 664,
4 Bay Shore, correct?

5 A Yes.

6 Q That is a decision from
7 unemployment, correct?

8 A I don't know what it says. I
9 don't read English.

10 Q Did you look at the document?

11 A I saw that it was my name and my
12 address.

13 Q (Reading in Spanish.) Do you know
14 what that means?

15 A Yes, it's in Spanish.

16 Q So the decision is in Spanish and
17 English, right?

18 A Yes.

19 Q When you gave me the flippant
20 answer before that you don't know what it says
21 because it's in English, you were being a little
22 bit of a wise guy, right?

23 A No, no, no. I didn't pay
24 attention to see that it was in Spanish.

25 Q Really? Because it says, please

1 E. Rivera

2 take notice, in bold letters that are
3 underlined.

4 A I only paid attention to the
5 address and my name.

6 Q Really? Because right above your
7 name, it says, decision and notice of decision
8 in bold letters, capitalized, underlined in
9 Spanish, correct?

10 A Correct, but I didn't pay
11 attention.

12 Q So maybe you did get it in the
13 mail and you just didn't pay attention to it?

14 A No, I didn't receive it in the
15 mail. I was waiting for the decision.

16 Q So you didn't pay attention to
17 this like you didn't pay attention to your
18 paychecks, right?

19 MR. McNAMARA: Objection.

20 A I never received that. Of course,
21 I had to pay attention to the paychecks, because
22 there was a lot of hours of work and nighttime.

23 Q But you didn't pay attention,
24 because that is what you testified to before.

25 A No, I would pay attention to the

1 E. Rivera

2 pay stubs, and I would pay attention to the
3 checks when they were paid to us correctly.

4 Q But you never paid attention to
5 how much was taken out and sent to the union,
6 correct?

7 MR. McNAMARA: Objection.

8 A No, sometimes Mr. Vecchia said it
9 was the same, what he gave us for the hour is
10 what he sent to the union.

11 Q I am not saying what he said. I
12 am asking you --

13 A It was almost the same.

14 Q I am asking you what the paycheck
15 said.

16 MR. McNAMARA: Objection.

17 A The paycheck would only specify
18 your name, the hours they paid you, the overtime
19 when it was correct, yeah.

20 Q So your paychecks only showed
21 overtime if it was correct?

22 MR. McNAMARA: Objection.

23 A No. I paid attention to that to
24 see if it was correct.

25 Q You just said the paychecks would

1 E. Rivera

2 only show overtime if it was correct. That is
3 what you just testified to, correct?

4 A No. The check -- no, the check
5 would always have it if you worked over forty
6 hours, if you worked sixty or seventy hours, it
7 would be correct with the overtime. But if you
8 worked less, it would be forty hours and it
9 would bring that.

10 Q You just testified that the check
11 would be correct if you worked overtime. Do you
12 not remember testifying to that; yes or no?

13 A Yes, yes.

14 Q Okay. I just want to make sure
15 that you remember saying that the check would be
16 okay if -- the check would be correct if there
17 was overtime on it.

18 A No, it wasn't correct.

19 Q But that is just what you said.
20 That is what you just said.

21 A I'm sorry if I probably said it
22 incorrectly.

23 Q You're apologizing if you lied?

24 A Yes.

25 Q But did you lie to me at all

1 E. Rivera

2 today?

3 A No. Sometimes it's just hard to
4 understand exactly, so we need an explanation.

5 Q No, we don't need this
6 explanation. We need you to tell the truth and
7 only the truth, so help you God.

8 Do you understand that?

9 A Yes.

10 Q Are you telling me the truth?

11 A Only the truth.

12 Q Are you telling me only the truth?

13 A Only the truth.

14 Q Did you say any lies to me today?

15 MR. McNAMARA: Objection.

16 A No, I haven't lied. I only say
17 the truth.

18 Q So when you said before that the
19 checks would be okay if they had overtime on
20 them, you were telling the truth, correct; yes
21 or no?

22 A I was saying the truth, yes.

23 Q Okay, very good. So we just want
24 to make sure that we understand that you are
25 only telling the truth and that your checks were

1 E. Rivera

2 correct when they had overtime hours on them.

3 Thank you for clearing that up.

4 MR. McNAMARA: Objection.

5 Q Now, your attorney has a copy of
6 the unemployment decision where you were found
7 to have lied to them. It also gave you
8 instructions on how to appeal this decision.

9 I take it that you never appealed
10 the decision, correct?

11 A Correct.

12 Q Now, at the time that you went for
13 this hearing, you had already obtained the
14 services of Mr. Ian Wallace, correct?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q But yet, you chose not to go to
18 this hearing with Mr. Ian Wallace, correct; yes
19 or no?

20 A Yes.

21 Q Did you tell Mr. Wallace about
22 this hearing before the hearing?

23 MR. McNAMARA: Objection.

24 A No.

25 Q So you chose not to, correct?

1 E. Rivera

2 A Correct.

3 Q Even though you had an attorney,
4 you chose not to bring him with you to
5 unemployment?

6 A Correct. I was just going to go
7 and tell the truth, and I thought the truth
8 would be just.

9 Q Did you go and tell the truth?

10 A Only the truth.

11 Q The Judge found that the truth, as
12 you told it, was not credible, correct?

13 A Correct.

14 Q So the Judge found you to be a
15 liar?

16 MR. McNAMARA: Objection.

17 Q Correct?

18 A That's fine.

19 Q Okay. I will take that back.

20 It doesn't make you a bad person.

21 It just meant that the Judge didn't think that
22 you were telling the truth. The same thing that
23 I believe is going to happen in this case.

24 MR. McNAMARA: Objection.

25 Q Because that's my job. You

1 E. Rivera

2 understand that, right?

3 A Yes.

4 Q Do you still receive mail at P.O.
5 Box 664 in Bay Shore?

6 A Yes.

7 Q Now, in March of 2010, you spoke
8 to Tommy, correct?

9 A Yes.

10 Q You told Tommy that you were going
11 to start on March 22nd of 2010, correct?

12 A No. Mr. Louie Vecchia told me we
13 were going to start March 20th.

14 Q When?

15 A About a month before.

16 Q Is that when you spoke to Tommy?

17 A No. I spoke with Tommy between
18 the 25th and the 27th of March. He didn't want
19 to listen to me.

20 Q You told unemployment that you
21 spoke to Tommy on March 1st and that you agreed
22 to start March 22nd. And then you called on
23 March 23rd and said you were unable to start
24 right away.

25 A I called to see if there was work,

1 E. Rivera

2 not to tell them that I wasn't coming in.

3 Q But you had already been told that
4 the start date was the 22nd.

5 A Yes, but they didn't call me.

6 Q But you spoke to them and you
7 knew.

8 A I knew a month before, but they
9 had to call me the day just to go to work.

10 Q You knew a month before that the
11 start day was the 22nd.

12 MR. McNAMARA: Objection.

13 Q Didn't you?

14 A Yes, but they didn't call me the
15 day to work.

16 Q Don't you realize there must have
17 been some sort of mistake and that they would
18 have taken you back if you showed up?

19 A No, no. If you -- if they called
20 you, you would work. But if you just showed up
21 and they didn't call you, you wouldn't.

22 Q But you testified at unemployment
23 that you spoke with Tommy and Tommy said come in
24 on the 22nd. That is what the Judge said.

25 A When I spoke to Mr. Tommy, he

1 E. Rivera

2 didn't want to listen to me.

3 Q But he told you to start on March
4 22nd.

5 A Mr. Tommy never told me to start
6 March 22nd. Mr. Louie said 20th.

7 Q And did you show up on the 20th?

8 A No. I was waiting for the phone
9 call from Mr. Louie.

10 Q But Mr. Louie said on the 20th and
11 you never showed up?

12 MR. McNAMARA: Objection.

13 A He never called me. I didn't have
14 money to just spend on gas just for the hell of
15 it.

16 Q What kind of car do you own?

17 A At that time, I had a Honda
18 Accord.

19 Q You live in Bay Shore?

20 A Uh-huh.

21 Q Where were you going to travel to?

22 A From Bay Shore to Medford.

23 Q How many miles is that?

24 A Maybe -- I don't know. No idea.

25 I don't know.

1 E. Rivera

2 Q You couldn't spend the dollar on
3 gas to go there?

4 MR. McNAMARA: Objection.

5 A Gas isn't a dollar.

6 Q How many miles is it?

7 A I don't know.

8 Q Maybe ten miles?

9 MR. McNAMARA: Objection.

10 A No idea. I have never checked it.

11 Q How do you know that you would
12 have had to have spent a lot of gas on it?

13 MR. McNAMARA: Objection.

14 A I didn't say a lot. I just said
15 that I wasn't going to spend any gasoline just
16 for the heck of it.

17 Q Just to see if you had a job?

18 MR. McNAMARA: Objection.

19 A They could have called me.

20 Q You could have called them?

21 A I tried calling him and they
22 didn't pay me attention.

23 Q When did you try calling him?
24 Because you never testified about that before.

25 I'll tell you what. Unfold your

1 E. Rivera

2 arms, relax a little bit. If you made a
3 mistake, you admit it here and we will move on
4 from it. Don't worry about that.

5 MR. McNAMARA: Objection.

6 Q You never called them on the 22nd
7 or the 23rd to see if you could work, did you?

8 A On the 22nd or 23rd, I realized
9 that they had started working and they didn't
10 call me. I was waiting for there to be more
11 work so they could call me. Because sometimes,
12 they start to call slow; one, two.

13 Q How long did you wait?

14 A A week.

15 Q Really? Because the next week you
16 had already started for Intercounty.

17 A Yes. When I spoke with Mr. Louie
18 and I asked him about the job and he wasn't sure
19 if he could give it to me, then I went to look
20 with the union. They sent me to work with
21 Intercounty.

22 Q What day did you have that
23 conversation with him?

24 A With Louie, I think it was a week
25 before I started working. I'm not sure.

1 E. Rivera

2 Q Now, Tommy, do you know who Tommy
3 is?

4 A Yes.

5 Q What is Tommy's last name?

6 A I don't know his last name. I
7 only know him as Tommy.

8 Q What was Tommy's role at Suffolk
9 Paving?

10 A The super, the foreman, our boss,
11 however you want to call him.

12 Q Was he a good guy?

13 A Yeah, good guy.

14 Q Always treated you fairly?

15 A Yes.

16 Q Always treated you honestly?

17 A Yes.

18 Q Always treated you with respect?

19 A Yes.

20 MR. ZABELL: I need to take a
21 break.

22 (At this time a break was taken
23 from 1:09 p.m. until 1:12 p.m.)

24 Q I am going to show you a document.

25 Do you remember if I was asking

1 E. Rivera

2 you if Tommy was always fair and respectful?

3 A Yes.

4 (A document consisting of a
5 write-up was marked as Defendants'
6 Exhibit 4 for identification, as of this
7 date.)

8 Q I am going to show you a document
9 identified as Defendants' Exhibit 4 with today's
10 date. (Hanging.)

11 You have seen that document
12 before, correct?

13 A (Reviewing document.) No.

14 Q And what it is is a warning where
15 Tommy said that you were leaving tools behind on
16 job sites.

17 Did Tommy ever yell at you for
18 that?

19 A He said that to me, but he was the
20 one who was responsible, because he was the one
21 who was doing the job.

22 Q So you never thought you were
23 responsible for leaving tools behind?

24 A Not for that day that he said
25 about this.

1 E. Rivera

2 Q What day was this?

3 A It was in December. It was
4 December, but I don't remember what date.

5 Q Well, then, how do you know it
6 wasn't accurate on this day?

7 A I even remember where the job was.

8 Q Where was the job?

9 A I think it's Hauppauge.

10 Q Doesn't it say on the document it
11 was Hauppauge?

12 A And that is when he said that I
13 had left it behind, but he was the one who was
14 responsible, because he was the one doing the
15 work.

16 Q Were you there on the job site?

17 A Yes, as a worker.

18 Q Okay. As a worker, you were the
19 one using the tools, correct?

20 A We were doing two jobs --

21 Q Just answer the question. As a
22 worker, you were there using the tools, correct?

23 A It wasn't only me, but, yes,
24 correct.

25 Q It wasn't only you, but yes, you

1 E. Rivera

2 were using the tools that got left behind,
3 right?

4 MR. McNAMARA: Objection.

5 Q Yes or no?

6 A No, no.

7 Q What tools were left behind?

8 A I don't know. They sent me from
9 that job to another job and Tommy stayed there.

10 Q What tools were left behind?

11 A An iron-something.

12 Q Did you ever use that
13 iron-something?

14 A Yes, I used it.

15 Q Did you use it at that job site in
16 Hauppauge?

17 A No, we didn't use it.

18 Q But it was left at that job site,
19 but you didn't use it at that job site?

20 A I didn't use it, and I didn't take
21 it out of the truck.

22 Q But Tommy, who was always
23 respectful to you and always fair, wrote you up,
24 correct?

25 A Yes.

1 E. Rivera

2 Q You said that he was always
3 respectful and always fair after you got that
4 write-up, correct?

5 A Tommy didn't say anything to me
6 about that warning.

7 Q Sure, he did. It's in your
8 lawsuit.

9 A He only said to sign those papers.
10 He didn't let us see them or read what they
11 were.

12 Q Did you sign those papers?

13 A No.

14 Q Because they don't have your
15 signatures on them, but Tommy was always fair
16 and honest with you?

17 MR. McNAMARA: Objection.

18 Q Correct?

19 A With me, yes.

20 Q Including with that form, correct?

21 A I don't know about that form,
22 because I had never seen it until today. I
23 hadn't seen it.

24 Q Sure, you did. You said Tommy
25 gave it to you and said, sign it?

1 E. Rivera

2 A Tommy said, come over here and
3 sign this paper. I said, let's look at it, and
4 he said, no, no.

5 Q So he gave you a paper and said,
6 sign, don't look at it?

7 MR. McNAMARA: Objection.

8 A Uh-huh.

9 Q That doesn't sound all that
10 honest.

11 MR. McNAMARA: Objection.

12 A Maybe he was being pressured by
13 the boss.

14 Q Maybe you are just remembering
15 what you want to remember.

16 MR. McNAMARA: Objection.

17 Q Right?

18 A No.

19 Q Come on, tell the truth.

20 Do you know who that is

21 (indicating)?

22 A No. Bad copier.

23 Q Did you ever fight with Nora over
24 support payments that you have to pay for your
25 children?

1 E. Rivera

2 A Until now, I haven't received
3 anything.

4 Q Really? Because did Nora ever get
5 involved with the Durham County Department of
6 Social Services?

7 A Yes. Because she wanted Medicare,
8 because she couldn't use the health insurance
9 that I have for the children.

10 Q Why couldn't she use the health
11 insurance that you have for the children?

12 A I don't know. She doesn't pay
13 attention to how to do it.

14 Q So it's her fault?

15 A Yes. Because when I go, I use it
16 with the children.

17 Q So you were paying close to -- you
18 were getting paid close to \$70,000 a year and
19 you weren't taking care of your children?

20 MR. McNAMARA: Objection.

21 A I am taking care of my children.

22 Q Not if Social Services is getting
23 involved.

24 MR. McNAMARA: Objection.

25 A I don't know what Nora has done.

1 E. Rivera

2 Q Are your children on welfare?

3 A I don't know.

4 Q How do you not know?

5 A Nora doesn't tell me anything like
6 that. I send her money for the children and
7 everything.

8 Q In 2007, you were still with her,
9 though, weren't you?

10 A I don't know. I don't remember
11 what year it was that she left.

12 Q Isn't it true that there was a
13 welfare fraud investigation into your children?

14 MR. McNAMARA: Objection.

15 A I don't know.

16 Q Were you involved in that fraud?

17 MR. McNAMARA: Objection.

18 A No, sir. I have never seen any of
19 those papers.

20 Q Sure, you did. You are the one
21 that brought them into Suffolk Paving.

22 A No. When?

23 Q Who is Nora Rebus Garcia
24 (phonetic)?

25 A Nora Rebus, that is my wife.

1 E. Rivera

2 Q Who is Garcia?

3 A That is her extra last name. It's
4 either her mother's or father's last name.

5 Q She applied for welfare for your
6 family.

7 A I don't know anything about that.
8 We've been separated for many years. I don't
9 know what she is doing.

10 Q Were you separated in 2007?

11 A I don't remember what year she
12 left, but when --

13 Q Why did she leave you?

14 MR. McNAMARA: Objection.

15 A Because she had her family there,
16 and she said she wanted to go over there.

17 Q Aren't you her family?

18 A Repeat it?

19 Q Aren't you her family?

20 A Yes. I'm her family because of
21 the children.

22 Q Yes. But you are up here making a
23 good living, and she is down there applying for
24 welfare for your family.

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A I never told her to leave. She
3 went on her own responsibility.

4 Q So because she went on her own
5 responsibility, you cut her off financially?

6 MR. McNAMARA: Objection.

7 A No. I help her -- I always help
8 her financially.

9 Q What do you send her?

10 A I send her \$600 a month for the
11 rent for the apartment, and \$150 a week for the
12 food.

13 Q Did you tell that to the Welfare
14 Department?

15 A I didn't know she had done
16 anything with the Welfare Department.

17 Q Those documents that I just looked
18 at were documents that you gave your employer to
19 fill out for you.

20 A I don't even have an idea of that.
21 I don't like to ask the Government for help like
22 that. I work. I have a good job.

23 Q Do you have any hobbies?

24 A I go to the gym in the winter.

25 Q Do you play soccer?

1 E. Rivera

2 A Many -- a long time ago. I don't
3 play anymore.

4 Q Do you believe you were unlawfully
5 discharged from Suffolk Paving?

6 A I don't know what to call it. My
7 lawyer would have to be the one to say if it was
8 a termination or not.

9 Q I am asking you.

10 MR. McNAMARA: Objection.

11 A I don't know what to call it.

12 Q So you don't know if you were
13 unlawfully discharged?

14 MR. McNAMARA: Objection.

15 A I don't know.

16 Q Basically, you stopped working in
17 December of 2009, like everybody else, correct?

18 A Yes, correct.

19 Q And in March of 2010, you didn't
20 want to spend the gas to drive down to Suffolk
21 Paving to see if you had work, correct?

22 MR. McNAMARA: Objection.

23 A Correct.

24 Q Okay. You were paid all of your
25 regular wages, you just believe you are owed

1 E. Rivera

2 overtime wages, correct?

3 MR. McNAMARA: Objection.

4 Q Yes?

5 A Yes.

6 Q And the checks that indicated your
7 overtime on them were correct, as you testified
8 about before?

9 MR. McNAMARA: Objection.

10 Q Correct, yes or no?

11 A They weren't correct, the checks.
12 The hours of overtime were correct.

13 Q Didn't you testify before that the
14 checks you got that had overtime on them were
15 correct? Didn't you testify about that before?

16 MR. McNAMARA: Objection.

17 Q Yes or no?

18 A You understood the question wrong.

19 Q Wait. I asked the question.

20 You testified before that the
21 checks you got that had overtime on them were
22 correct; yes or no?

23 MR. McNAMARA: Objection.

24 A No.

25 Q Now you are lying again. There is

1 E. Rivera

2 no question before you.

3 A You asked the question in a
4 different way.

5 Q No, no. The question that I
6 asked: Do you remember testifying before that
7 when you got checks that had overtime on them,
8 the overtime was correct? Did you testify to
9 that; yes or no?

10 MR. McNAMARA: Objection.

11 Q Yes or no?

12 A I can't say yes.

13 Q Sure, you can. Your attorney can
14 tell you to answer the question yes or no.

15 I am asking if you testified about
16 that before. You testified about that before.

17 MR. McNAMARA: Objection.

18 Q Don't you remember testifying
19 about that before?

20 A Yes, I remember.

21 Q And don't you recall testifying
22 that the checks were correct if they had
23 overtime on them?

24 MR. McNAMARA: Objection.

25 A Yes, but I said that the overtime

1 E. Rivera

2 wasn't there.

3 Q You said, yes, the checks were
4 correct if there was overtime on the check.

5 MR. McNAMARA: Objection.

6 A I said that the checks had
7 overtime sometimes, but it didn't have all the
8 overtime.

9 Q You don't remember testifying that
10 when you received the check with overtime on it,
11 it was correct?

12 MR. McNAMARA: Objection.

13 A That's what I said.

14 Q Yes, correct. Right?

15 A Correct.

16 Q Right, yes?

17 A Yes.

18 MR. McNAMARA: Objection.

19 Q Why are you trying to change that
20 now?

21 A You tried to ask things in a
22 different manner.

23 Q No, I'm not.

24 A Okay.

25 Q You believe that you are only

1 E. Rivera

2 entitled to overtime for hours worked in excess
3 of forty hours per week, correct?

4 MR. McNAMARA: Objection.

5 Q It says it right here on the
6 complaint.

7 A Correct.

8 Q And that you were paid all your
9 regular time correctly?

10 A The eight hours that I worked was
11 paid correctly, but the overtime was never paid
12 correctly.

13 Q Overtime is only after forty hours
14 a week. That is what it says in your complaint.

15 A But for this company, we never
16 worked forty hours.

17 Q Sometimes you worked more,
18 sometimes you worked less, right?

19 MR. McNAMARA: Objection.

20 A Yes, always more.

21 Q Sometimes less, though, right?

22 A If I worked one day, I always
23 worked overtime.

24 Q So you could work more than forty
25 hours in one day?

1 E. Rivera

2 A No. I am talking about one day.

3 Q In one day, you could work more
4 than forty hours?

5 MR. McNAMARA: Objection.

6 A No.

7 Q Now, do you remember any of the
8 names of the projects you worked on?

9 A Yes, Flower Hill and I don't
10 remember the name of the other project. It was
11 in Massapequa.

12 Q Long-term project?

13 A Yeah, almost a year.

14 Q The long-term projects, you would
15 drive directly there, correct?

16 A I always had to go to the yard to
17 pick up the truck, because I drove.

18 Q For every job?

19 A In Flower Hill, there was a time
20 when they gave us a place where we could leave
21 the truck there, and then you could go in your
22 own car to the job.

23 Q So Flower Hill was the only job
24 that you went to directly?

25 MR. McNAMARA: Objection.

1 E. Rivera

2 A But not all the time, sometimes.

3 Q So you never drove directly to any
4 other job, other than Flower Hill?

5 A No, only Flower Hill.

6 Q You would go to the yard for about
7 five minutes in the morning?

8 MR. McNAMARA: Objection.

9 A No. It's more than five minutes.
10 I had to talk to Tommy to see what needed to be
11 done, go get tools ready, and then go to work.

12 Q But the tools were already in the
13 truck, right?

14 A Not always, because sometimes you
15 had to go look and see what you needed.

16 Q But they were the same tools;
17 they're shovels, rakes, they're brooms? It's
18 not all that complicated.

19 A Yes, but some were here, some were
20 over there.

21 Q They were always in the truck from
22 the night before?

23 MR. McNAMARA: Objection.

24 A Not always.

25 Q Yes, always.

1 E. Rivera

2 Unless you left them on a job.

3 MR. McNAMARA: Objection.

4 A Sometimes you would be there for a
5 half an hour before you left.

6 Q Nobody believes you on that one.

7 A Okay.

8 Q None of your colleagues said that.

9 A Okay, Tommy knows that.

10 Q All of your colleagues said we
11 weren't there for five minutes, we would go
12 there just to get a ride to the next job.

13 MR. McNAMARA: Objection.

14 Q Correct?

15 A I was there about half an hour,
16 twenty minutes, depending on what needed to be
17 done on the job.

18 Q Then, you would leave the shop,
19 and all your colleagues said you would go get
20 breakfast then?

21 MR. McNAMARA: Objection.

22 A I always brought my food.

23 Q But they would go get breakfast?

24 A Yeah, about ten minutes.

25 Q Each?

1 E. Rivera

2 A No, all of us together, because
3 they would be eating in the truck.

4 Q And you would have to go to a deli
5 and you would have to order the egg sandwiches,
6 right?

7 A Maybe one or two might have
8 ordered food, not all of them ordered food all
9 the time.

10 Q Then, you would get coffee, right?

11 A In the same deli, you would grab a
12 coffee and you would go.

13 Q And you would be there anywhere
14 from fifteen to twenty minutes?

15 MR. McNAMARA: Objection.

16 A Ten minutes, maybe.

17 Q Maybe more?

18 A Maybe fifteen.

19 Q Then, you would drive to the job,
20 right?

21 A Correct.

22 Q What time would you get to the
23 job?

24 A Depending on the distance.

25 Q Then, you would work at the job,

1 E. Rivera

2 you would break for lunch, right?

3 A We never stopped for lunch.

4 Q Never stopped for lunch?

5 A Always when I was working, it was
6 somebody would grab ten minutes, then, you would
7 grab, we never stopped working.

8 Q They would send someone to the
9 deli to get chicken sandwiches?

10 A Sometimes, yeah.

11 Q Chicken cutlet?

12 A Anything, whatever the person
13 wanted.

14 Q Sometimes they would get you
15 lunch, right?

16 A Yes.

17 Q When you would get that lunch, you
18 would take a break, right?

19 A I would do whatever they would
20 tell me and I would go do it.

21 Q What would you eat for lunch?

22 A I always took rice, frijoles,
23 sometimes meat.

24 Q Sometimes you would get lunch from
25 the deli, right?

1 E. Rivera

2 A It was rare time, because I
3 usually brought my food.

4 Q You would get a sandwich, right?
5 MR. McNAMARA: Objection.

6 A No.

7 Q Never?

8 A When I had food, no. If I had
9 food, I wouldn't buy one.

10 Q If you didn't have food, you would
11 get a sandwich, right?

12 A Correct.

13 Q What kind of sandwich would you
14 get?

15 A Sometimes I would go to a Spanish
16 deli and buy Spanish food.

17 Q What kind of food?

18 A Rice and beans, meat.

19 Q You would only take two minutes to
20 go buy it and eat it, right?

21 A No, it also depends on the
22 distance to the deli.

23 Q So sometimes it would be more than
24 two minutes, right?

25 A Yes.

1 E. Rivera

2 Q Sometimes it would be a half an
3 hour, right?

4 MR. McNAMARA: Objection.

5 A Sometimes it was twenty minutes.
6 It depends on the deli, depends on where you
7 were working.

8 Q Sometimes a little bit more?

9 A No, no more than that.

10 Q Did you ever play soccer on a job
11 site?

12 A No, not me.

13 Q Did you ever see people play
14 soccer on a job site?

15 A No, I didn't watch them play.

16 Q What time would you get to the job
17 site in the morning?

18 A Depending on the distance.
19 Depending on the distance from the job site.
20 Sometimes it would be twenty minutes, half an
21 hour to Flower Hill.

22 Q So what time would you get to the
23 job site?

24 A At 7:00.

25 Q You would work until 4:00?

1 E. Rivera

2 A We worked more than that. I was
3 the last one to go out.

4 Q When?

5 A 6:00, 7:00.

6 Q Every day?

7 A No.

8 Q Sometimes less, right?

9 A Sometimes 6:00, 6:30.

10 Q Sometimes 4:00?

11 A Rarely.

12 Q You know there were some job sites
13 that you worked at where they logged your time
14 in and out, right?

15 A I don't know. I imagine that the
16 inspectors would do that, but they would usually
17 leave early, and we would still stay there
18 working.

19 Q So the inspectors' reports weren't
20 accurate?

21 A I don't know that.

22 Q What if an inspector's report said
23 that you didn't show up to a job until 8:00?

24 A He would be lying.

25 Q Because you didn't show up until

1 E. Rivera

2 9:00, right?

3 MR. McNAMARA: Objection.

4 A 6:30 to 7:00 we would be there
5 when it was a project.

6 Q Did you do any projects in the
7 Town of Babylon?

8 A No, not that I remember.

9 Q Have you ever been arrested?

10 A No.

11 Q Either in this country or any
12 other country?

13 MR. McNAMARA: Objection.

14 A No.

15 Q Have you ever been charged with
16 breaking the law?

17 A I've gotten tickets for
18 registration or red light.

19 Q What kind of tickets for
20 registration?

21 A That the registration was expired.

22 MR. ZABELL: I am going to take a
23 few minutes.

24 (At this time a break was taken
25 from 1:40 p.m. until 1:57 p.m.)

1 E. Rivera

2 Q Mr. Rivera, I couldn't help but
3 overhear when you were talking to Mr. Vecchia
4 before. Do you remember that?

5 A Yes.

6 Q You told Mr. Vecchia that maybe
7 you didn't get his phone call because you
8 changed your telephone number; is that correct?

9 A No. I told him that my phone was
10 bad for that week.

11 Q Oh, what does that mean?

12 A My phone was bad, but I called the
13 office, Mr. Tommy, from another phone. And he
14 didn't want to listen to me. He said that he
15 was very busy.

16 Q So if they did try to call you,
17 your phone was bad and they couldn't get through
18 to you?

19 A Exactly.

20 Q Oh, I see. Was your phone bad
21 because you didn't pay the bill?

22 A No. It had just broke, damaged,
23 but it was the phone.

24 Q So maybe they did try to call you?

25 A Maybe yes, maybe not.

1 E. Rivera

2 Q Well, you're suing saying, no,
3 they never called you?

4 A I never spoke with them. I can't
5 tell you if they called me or not.

6 Q But they may have?

7 A They say that I spoke with them.
8 I spoke with Mr. Vecchia and he said, wait, I
9 don't know what I am going to do. I have to do
10 my schedule and I will call you. I didn't
11 believe him, that is why I looked for another
12 job.

13 Q But you were talking to him in
14 here before, right?

15 A Yeah, right there.

16 Q He told you that he called you,
17 right?

18 A Yes. And I told him that I had
19 also spoken to him.

20 Q Do you think that he was lying
21 when he said that he called you?

22 A I don't know. I can't make an
23 opinion on him.

24 Q Well, do you have any reason to
25 believe that he was lying?

1 E. Rivera

2 A I don't know.

3 Q I need a yes or no.

4 MR. McNAMARA: Objection.

5 Q You can answer.

6 A I don't know if he was lying to me
7 or not. Because he called the Department of
8 Labor and said that I didn't want to work, just
9 to hurt me.

10 Q But you lost that, so he didn't do
11 that to hurt you. He did it because it was
12 truthful and accurate. That is what was
13 determined by a Judge.

14 MR. McNAMARA: Objection.

15 Q Correct?

16 A No, it wasn't correct what he did,
17 because I like to work.

18 Q The Judge said that he was telling
19 the truth and that you were lying. Did you know
20 that?

21 A Yes, I know.

22 Q So you agree with that, right,
23 that is what the Judge said?

24 A Yes.

25 Q That is his fault that the Judge

1 E. Rivera

2 said that you lied?

3 A Yes.

4 Q It's not your fault, right? It's
5 never your fault.

6 A That wasn't my fault.

7 Q I am going to show you a document
8 that has previously been identified as
9 Defendants' Exhibit 5. (Handing.)

10 A (Reviewing document.) What is
11 that?

12 Q Take a look at the document. Have
13 you ever seen that before?

14 A No.

15 Q Thank you.

16 Did you ever see a bulletin board
17 at the yard?

18 A No.

19 Q Did you ever see any signs up at
20 the yard?

21 A No.

22 Q Signs telling you that you could
23 go directly to the job site and that you are not
24 expected to go to the yard?

25 A No.

1 E. Rivera

2 Q Did any of your coworkers go
3 directly to the job site?

4 A I don't know. I can't speak for
5 them.

6 Q You never saw anybody there at the
7 job site?

8 A We always went together in the
9 truck.

10 Q And that would be around 7:00 or
11 8:00 from the yard?

12 A No. We would get to the yard at
13 6:30, and we would leave there from 6:45 to
14 6:50.

15 Q And everybody would get to the
16 yard at 6:30?

17 A Yes. It was rare whoever got
18 there earlier. Never later.

19 Q You would go there and you would
20 get your assignment for the day and then, you
21 would leave, right?

22 A Yes.

23 Q Everybody would go in the same
24 trucks to save gas, right?

25 A Yes.

1 E. Rivera

2 MR. ZABELL: Thank you for your
3 time. I don't believe I have any more
4 questions of you. Although, I am
5 reserving the right to bring you back
6 here if I find that you've lied to me any
7 more than I have determined that you have
8 lied.

9 MR. McNAMARA: We are objecting to
10 that.

11 MR. ZABELL: Okay?

12 THE WITNESS: Okay.

13 MR. ZABELL: Be honest, my friend.

14 THE WITNESS: I am honest.

15 (Time Noted: 2:03 p.m.)
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A C K N O W L E D G M E N T

STATE OF NEW YORK)
:
COUNTY OF)

I, EDVIN A. RIVERA, s/h/a EDWIN RIVERA,
hereby certify that I have read the transcript
of my testimony taken under oath in my
deposition of October 22, 2011; that the
transcript is a true and complete record of my
testimony, and that the answers on the record as
given by me are true and correct.

EDVIN A. RIVERA, s/h/a EDWIN RIVERA

Signed and subscribed to before me this
_____ day of _____, 2011.

Notary Public, State of New York

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LITIGATION SUPPORT INDEX

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
E. Rivera	Mr. Zabell	4

EXHIBITS

DEFENDANTS'

EXHIBIT	DESCRIPTION	PAGE
1	Document from the First District Court of Suffolk County	8
2	Document consisting of a copy of Mr. Rivera's driver's license	19
3	Three-Page double-sided document	150
4	Document consisting of a write-up	164

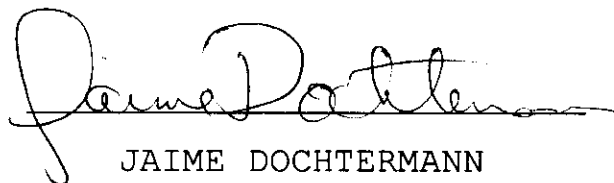
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C E R T I F I C A T E

I, JAIME DOCHTERMANN, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.


JAIME DOCHTERMANN

1

2

ERRATA SHEET

3

I wish to make the following changes

4

for the following reasons:

5

PAGE LINE

6

_____ CHANGE: _____

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